

**PRESIDENT'S FISCAL YEAR 2006 BUDGET FOR THE  
U.S. DEPARTMENT OF LABOR**

---

**HEARING**  
BEFORE THE  
**COMMITTEE ON WAYS AND MEANS**  
**U.S. HOUSE OF REPRESENTATIVES**

ONE HUNDRED NINTH CONGRESS

FIRST SESSION

MARCH 16, 2005

**Serial No. 109-3**

Printed for the use of the Committee on Ways and Means



U.S. GOVERNMENT PRINTING OFFICE

23-914

WASHINGTON : 2005

---

For sale by the Superintendent of Documents, U.S. Government Printing Office  
Internet: bookstore.gpo.gov Phone: toll free (866) 512-1800; DC area (202) 512-1800  
Fax: (202) 512-2250 Mail: Stop SSOP, Washington, DC 20402-0001

## COMMITTEE ON WAYS AND MEANS

BILL THOMAS, California, *Chairman*

E. CLAY SHAW, JR., Florida	CHARLES B. RANGEL, New York
NANCY L. JOHNSON, Connecticut	FORTNEY PETE STARK, California
WALLY HERGER, California	SANDER M. LEVIN, Michigan
JIM MCCRERY, Louisiana	BENJAMIN L. CARDIN, Maryland
DAVE CAMP, Michigan	JIM MCDERMOTT, Washington
JIM RAMSTAD, Minnesota	JOHN LEWIS, Georgia
JIM NUSSLE, Iowa	RICHARD E. NEAL, Massachusetts
SAM JOHNSON, Texas	MICHAEL R. MCNULTY, New York
ROB PORTMAN, Ohio	WILLIAM J. JEFFERSON, Louisiana
PHIL ENGLISH, Pennsylvania	JOHN S. TANNER, Tennessee
J.D. HAYWORTH, Arizona	XAVIER BECERRA, California
JERRY WELLER, Illinois	LLOYD DOGGETT, Texas
KENNY C. HULSHOF, Missouri	EARL POMEROY, North Dakota
RON LEWIS, Kentucky	STEPHANIE TUBBS JONES, Ohio
MARK FOLEY, Florida	MIKE THOMPSON, California
KEVIN BRADY, Texas	JOHN B. LARSON, Connecticut
THOMAS M. REYNOLDS, New York	RAHM EMANUEL, Illinois
PAUL RYAN, Wisconsin	
ERIC CANTOR, Virginia	
JOHN LINDER, Georgia	
BOB BEAUPREZ, Colorado	
MELISSA A. HART, Pennsylvania	
CHRIS CHOCOLA, Indiana	

ALLISON H. GILES, *Chief of Staff*

JANICE MAYS, *Minority Chief Counsel*

Pursuant to clause 2(e)(4) of Rule XI of the Rules of the House, public hearing records of the Committee on Ways and Means are also published in electronic form. **The printed hearing record remains the official version.** Because electronic submissions are used to prepare both printed and electronic versions of the hearing record, the process of converting between various electronic formats may introduce unintentional errors or omissions. Such occurrences are inherent in the current publication process and should diminish as the process is further refined.

## CONTENTS

---

	Page
Advisory of March 9, 2005 announcing the hearing .....	2
WITNESS	
U.S. Department of Labor, Hon. Elaine L. Chao, Secretary .....	5



**PRESIDENT'S FISCAL YEAR 2006 BUDGET FOR  
THE U.S. DEPARTMENT OF LABOR**

---

**WEDNESDAY, MARCH 16, 2005**

U.S. HOUSE OF REPRESENTATIVES,  
COMMITTEE ON WAYS AND MEANS,  
*Washington, DC.*

The Committee met, pursuant to notice, at 10:36 a.m., in room 1100, Longworth House Office Building, Hon. Bill Thomas (Chairman of the Committee) presiding.

[The advisory announcing the hearing follows:]

# ADVISORY

## FROM THE COMMITTEE ON WAYS AND MEANS

FOR IMMEDIATE RELEASE  
March 09, 2005  
No. FC-5

CONTACT: (202) 225-1721

### Thomas Announces Hearing on President's Fiscal Year 2006 Budget for the U.S. Department of Labor

Congressman Bill Thomas (R-CA), Chairman of the Committee on Ways and Means, today announced that the Committee will hold a hearing on the President's fiscal year 2006 budget for the U.S. Department of Labor. **The hearing will take place on Wednesday, March 16, 2005, in the main Committee hearing room, 1100 Longworth House Office Building, beginning at 10:30 a.m.**

In view of the limited time available to hear witnesses, oral testimony at this hearing will be from the Honorable Elaine Chao, Secretary, U.S. Department of Labor. However, any individual or organization not scheduled for an oral appearance may submit a written statement for consideration by the Committee and for inclusion in the printed record of the hearing.

#### BACKGROUND:

On February 2, 2005, President George W. Bush delivered his State of the Union address, in which he discussed several legislative initiatives. The President provided the details of these proposals on February 7, 2005, in his fiscal year 2006 budget, as submitted to the Congress.

In announcing the hearing, Chairman Thomas stated, "This hearing will allow us to examine the President's proposals to help workers prepare for, find, and retain good jobs. We look forward to Secretary Chao's testimony."

#### FOCUS OF THE HEARING:

The focus of the hearing will be on U.S. Department of Labor proposals in the President's fiscal year 2006 budget within the Committee's jurisdiction.

#### DETAILS FOR SUBMISSION OF WRITTEN COMMENTS:

**Please Note:** Any person(s) and/or organization(s) wishing to submit for the hearing record must follow the appropriate link on the hearing page of the Committee website and complete the informational forms. From the Committee homepage, <http://waysandmeans.house.gov>, select "109th Congress" from the menu entitled, "Hearing Archives" (<http://waysandmeans.house.gov/Hearings.asp?congress=17>). Select the hearing for which you would like to submit, and click on the link entitled, "Click here to provide a submission for the record." Once you have followed the on-line instructions, completing all informational forms and clicking "submit" on the final page, an email will be sent to the address which you supply confirming your interest in providing a submission for the record. You **MUST REPLY** to the email and **ATTACH** your submission as a Word or WordPerfect document, in compliance with the formatting requirements listed below, by close of business Wednesday, March 30, 2005. **Finally**, please note that due to the change in House mail policy, the U.S. Capitol Police will refuse sealed-package deliveries to all House Office Buildings. For questions, or if you encounter technical problems, please call (202) 225-1721.

**FORMATTING REQUIREMENTS:**

The Committee relies on electronic submissions for printing the official hearing record. As always, submissions will be included in the record according to the discretion of the Committee. The Committee will not alter the content of your submission, but we reserve the right to format it according to our guidelines. Any submission provided to the Committee by a witness, any supplementary materials submitted for the printed record, and any written comments in response to a request for written comments must conform to the guidelines listed below. Any submission or supplementary item not in compliance with these guidelines will not be printed, but will be maintained in the Committee files for review and use by the Committee.

1. All submissions and supplementary materials must be provided in Word or WordPerfect format and MUST NOT exceed a total of 10 pages, including attachments. Witnesses and submitters are advised that the Committee relies on electronic submissions for printing the official hearing record.

2. Copies of whole documents submitted as exhibit material will not be accepted for printing. Instead, exhibit material should be referenced and quoted or paraphrased. All exhibit material not meeting these specifications will be maintained in the Committee files for review and use by the Committee.

3. All submissions must include a list of all clients, persons, and/or organizations on whose behalf the witness appears. A supplemental sheet must accompany each submission listing the name, company, address, telephone and fax numbers of each witness.

Note: All Committee advisories and news releases are available on the World Wide Web at <http://waysandmeans.house.gov>.

The Committee seeks to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, please call 202-225-1721 or 202-226-3411 TTD/TTY in advance of the event (four business days notice is requested). Questions with regard to special accommodation needs in general (including availability of Committee materials in alternative formats) may be directed to the Committee as noted above.

---

Chairman THOMAS. May I ask our guests and staff to find seats, please? Good morning. Today, we welcome U.S. Department of Labor Secretary Elaine Chao, as we continue to examine the Administration's fiscal year 2006 budget. Madam Secretary, as always, thank you for coming. We look forward to your testimony in terms of continued efforts to grow the economy to ensure that our Nation's economic infrastructure reflects current and future needs and that we are providing jobs for those who desire them.

Since your last appearance, our economy has continued to expand, and the Chair believes it is in large part due to our work together to provide timely tax relief and politics encouraging further growth in trade. In 2004, the Gross Domestic Product growth was 4.4 percent. That is much higher than the historic 3.1 percent and a record since 1999. Solid economic expansion has led to job growth and wage increases. In the last year, the U.S. economy created nearly 2.4 million new jobs, while wages and salaries rose 5.2 percent during the same time. It is a clear indication as we examine jobs and the economy that today's economy is different than earlier American economies. Those of us who focused on this when we were not in the Congress remember the classic Humphrey-Hawkins legislation which stated as its goal full employment. Full employment under that legislation was an unemployment rate of 6 percent. We have been under that if, in fact, that would be the definition for full employment, which shows you how much the economy has changed. Meanwhile, it is important to note that the economy recovered from the 2001 recession. This Congress made generous temporary extended unemployment benefits available to Americans

as they transitioned into new jobs. That assistance, I believe, was well-timed, and it served its purpose. By January of 2005, more than 142 million people were working in the United States, which is, of course, an all-time record.

Clearly, our economy is strong, but we need to keep it that way. The President has talked and will continue to focus on Social Security. The first baby boomers will be retiring in less than 3 years, and an aging society needs a different economic structure than our earlier one. It is essential that Congress focus on the broader issue of retirement security, including pension protections. Pensions are a major part of retirement for millions of Americans, and we must make sure that the programs are viable for the future. The President has put forward a reform proposal, and the Committee is ready to examine that and other ideas that anyone, including Members, may bring forward. We look forward to hearing more about your comprehensive pension reform and the Administration's plans to have the best-trained, most diverse and most innovative workforce in the world. With that, I would recognize the gentleman from New York, the Ranking Member, for any statement he would wish to make.

Mr. RANGEL. Thank you, Mr. Chairman. I join with you in welcoming the distinguished Security of Labor to this Committee, and I agree with you that as a trustee of the Social Security fund, we, too would be interested in your views, as is the President, in terms of how we can make certain that the trust fund is solvent so that young people can have the same form of confidence in the Social Security system as the older people have already had. In addition to that, soon, perhaps, we might have to review the Central American Free Trade Agreement (CAFTA), and I understand your office is in the process of reviewing the international labor standards and other issues that would assist us in making a determination. In connection with your role as trustee, I assume there is supposed to be some type of a Trustees' Report that the Congress is expected to receive. If you could share with us when we could look at that, it is good.

I hope I have an opportunity to concentrate on your programs to put our veterans back to work. There has been a sharp increase in the number of veterans who have found that they have been unable to convert their military occupation skills into civilian skills, and we notice that the budget does not provide for an increase in that number. Also, in our inner cities, as a Member of the Congressional Black Caucus, while we have the most productive workforce in the world, we have a public school system that in my area, 50 percent of the kids do not go to school, or they drop out of school, and those who do get out of school, there is very little relationship between their training and the market, and so, we have a 50 percent unemployment rate—we have a 50 percent unemployment rate among the minorities in the City of New York, and we are going through a building boom. We have problems with the developers and problems with the unions, racist problems. So, knowing that all of this comes within your domain, it would be very helpful if we can get your views on those things. Thank you, Mr. Chairman.



Chairman THOMAS. I thank the gentleman. It is my pleasure to present to the Committee the Honorable Elaine Chao, Secretary, U.S. Department of Labor.

Mr. MCDERMOTT. Mr. Chairman, may I ask unanimous consent to enter some remarks in the record at this point?

Chairman THOMAS. Without objection, any Member who may have written opening statements can be placed in the record.

Mr. MCDERMOTT. Thank you.

[The prepared statement of Mr. McDermott follows:]

**Opening Statement of The Honorable Jim McDermott, a Representative in Congress from the State of Washington**

Good morning, Ms. Chao. Thank you for coming before the committee again today. I've read your testimony and it covers a number of important issues that affect the lives and the economic security of millions of American workers from the unemployment insurance program, to worker training, trade adjustment assistance, our pension system and our health care system. With great interest I look forward to working with Chairman Herger to hold hearings on your proposals to the Unemployment Insurance program, a program vital to the stability and strength of our economy and crucial for families with unemployed workers.

I hope that the proposals in the President's Budget have been developed in cooperation with State Governors and legislatures. It seems too many of the Administration's ideas have not gone through such a process in the past. This committee needs to continue to look at ways to strengthen the Unemployment Insurance program to ensure that it meets the needs of today's economy and today's workforce. Ironically, for reasons I can not understand, many low wage workers do not qualify for benefits under the Unemployment Insurance program when they lose their jobs simply because their wages are low, not because they haven't been working full time. We've seen that the triggers currently in law designed to extend the duration of unemployment benefits during an economic recession and times of high unemployment simply do not work. We need to work together to update these triggers. We need to ensure that part time workers, a growing segment of our workforce, are not denied unemployment benefits simply because of their part time status. This is especially important for women—working moms, whether they're married or not. And, we need to make sure that employers are not inappropriately classifying employees as contract workers in order to avoid paying unemployment taxes and payroll taxes.

Under current law the IRS isn't even allowed to issue regulations on this issue despite the fact that we know tens of millions of tax dollars are going uncollected because of employer fraud. But overall, Secretary Chao, our workforce is challenged like never before because of globalization. Because of the democratization of information, of services, of capital and of labor. We need to look beyond programs that simply address the symptoms of a challenged workforce, such as unemployed workers. We need to find ways to prevent these workers from losing their jobs to begin with. When someone applies for trade adjustment assistance, or unemployment compensation, it's already too late. We've already failed. They're out of work, and an employer has downsized. We need to ensure that our workers, and the employers that rely on them, have the access to continuing education and job training while they're still employed, so that workers and employers alike stay competitive in a growingly competitive economy.

Chairman THOMAS. I will tell the Secretary of Labor that any written statement she may have will be made a part of the record, and you can address the Committee in any way you see fit with the time you have.

---

**STATEMENT OF THE HONORABLE ELAINE L. CHAO,  
SECRETARY, U.S. DEPARTMENT OF LABOR**

Ms. CHAO. Thank you very much, Mr. Chairman. I will make it short. I am delighted to be here today to discuss the President's budget. The President's budget will enable the Department of Labor to continue to build upon its precedent-setting record of en-

forcing our worker protection laws, and we will implement bold new training programs and initiatives that will help us deliver more training opportunities to America's workforce. The proposed reforms to our Work Force Investment Act (WIA) will enable us to serve more individuals and also achieve even better results. To summarize, the President's fiscal year 2006 budget for the Department of Labor increases resources for each of the Department's principal enforcement agencies.

In fiscal year 2006, the Department of Labor will continue to enhance worker safety and health, will continue to set new records in protecting workers' pay, benefits, and union dues. We will also take further steps to strengthen the reemployment rights of veterans, and in addition, the Department will seek to increase access to quality health care for workers and their families through initiatives such as association health plans. To convey a sense of where we are going, let me just talk for a second about where we have been. In the course of the last 4 years, worker fatalities have fallen to record lows. Just since 2001, workplace fatalities for Hispanic workers have been reduced by 11.6 percent. Fatalities in mining operations have dropped to the lowest points since the records were first kept in 1910.

This Administration's commitment to ensuring America's retirement security is also reflected in the fourth record year of monetary results. In fiscal year 2004, the Employees' Benefits Security Administration (EBSA) achieved more than \$3 billion in monetary results for workers' retirement and health plans, and this is a 121-percent increase over the previous year. The Department of Labor has also made significant efforts to improve worker training programs. The President's initiatives, including the High Growth Job Training Initiative, the Community College Initiative, and reforms to the WIA are focused upon helping workers train for and also find jobs in sectors of the economy that are fast growing and experiencing a shortage of workers, and these are also good paying jobs.

To ensure a sound safety net for those who lose their jobs, we have proposed a new \$40 million strategy to help ensure the integrity of the unemployment insurance trust funds. This will increase the number of eligibility interviews at one-stop career centers and strengthen efforts to detect and also prevent an increasing trend in identity thefts. Several other legislative initiatives important to this Committee are associated with this year's budget submission as well. The first one is that the President has called for reform of our Nation's pension guarantee system. This Administration has taken the initiative on this issue before the situation receives crisis proportions. The problems of single employer private sector pension underfunding and the annual deficits at the Pension Benefit Guaranty Corporation (PBGC) cannot continue. It is not sustainable, and we will jeopardize the retirement security of over 34 million American workers who depend upon defined benefit plans.

Second, the WIA reauthorization that was just passed by the House allows Governors and local leaders, officials, more flexibility to respond to the needs of their States and also to local areas of need. We want to go a step further and bring all workers into the mainstream training system, which will further effectively connect hard to serve individuals with employers. The WIA-plus consoli-

dated grant proposal would permit the consolidation of over five other job training programs, including Trade Adjustment Assistance (TAA) at the option of State governors. This would also create a single funding stream that would be more flexible, less costly to run and in the end better serve workers.

Finally, the Administration has also proposed restructuring the debt of the Black Lung Disability Trust Fund. Without restructuring the debt in this trust fund, which reached \$8.7 billion already at the end of last year, we will continue to grow, and the fund will never be solvent. It is not possible to mention every Department of Labor program and initiative that merits the Committee's attention in the very brief opening statement, but I would like to note that even in an era of budget realities that require tough choices, which we all face, this budget continues to provide a strong array of protections and services for America's workers. So, Mr. Chairman, I have got a written statement also which I will submit for the record, and I will be glad now to answer any questions that you or other Members of the Committee may have.

[The prepared statement of Ms. Chao follows:]

**Statement of The Honorable Elaine L. Chao, Secretary, U.S. Department of Labor**

Good morning. Chairman Thomas and distinguished members of the Committee, thank you for inviting me to testify. I am pleased to have the opportunity to discuss the President's Fiscal Year (FY) 2006 Budget proposal, which includes initiatives to reduce improper payments and enhance the integrity of the Federal-State Unemployment Insurance (UI) system, strengthen funding for single-employer pension plans, improve our Trade Adjustment Assistance (TAA) program, reform our job training programs, refinance the Black Lung Disability Trust Fund's debt, and improve access to health benefits through Association Health Plans.

**The President's Economic Message**

The President has put forth an ambitious agenda to ensure that America's economy remains the most prosperous in the world. To accomplish this, he has proposed a three-pillar strategy, which includes restraining spending by the Federal Government; working with Congress to pass legislation that promotes economic growth; and reforming government institutions so that they can meet the realities of our new century.

To confront the great challenges that will determine the quality of life for our children and grandchildren and to prepare Americans for jobs of the 21st Century, the President has called for a series of actions. One of these is to reform our workforce training programs. Technology and globalization are transforming America's economic landscape; therefore, the President is committed to providing American workers with the opportunity to obtain the skills they need to succeed. President Bush believes we must ensure that every adult, especially low- and middle-income Americans, has access to quality skills training. By working together, we can reform the current workforce training system to eliminate duplication and waste, double the number of people trained through major Workforce Investment Act (WIA) grant programs, prepare workers for high-demand occupations, and provide better services for our workforce.

**The President's FY 2006 Budget Request**

The total FY 2006 Budget request for the Department of Labor is \$54.5 billion, which reflects a \$4.3 billion projected increase in mandatory spending. Before addressing Unemployment Insurance and Trade Adjustment Assistance programmatic issues, I would like to comment briefly on the President's FY 2006 Budget request for these two programs. The Budget request includes \$2.6 billion in discretionary funding for grants to States for UI administration. This includes an increase of \$30 million for states to address the very serious issue of identity theft and an increase of \$10 million to continue an effort begun this year to ensure that UI beneficiaries are meeting reemployment goals by connecting with the local One-Stop Career Centers. Through the prevention, detection, and recovery of improper benefit payments, we estimate that the \$40 million discretionary request for these initiatives will

produce mandatory outlay savings for the Unemployment Trust Fund (UTF) in 2006 of up to \$330 million.

The total UI discretionary request for FY 2006 is \$40.5 million below the funding level enacted for FY 2005 due to lower UI claims workload. These funds are sufficient to finance the States' efforts in processing 18.8 million initial UI claims and collecting State payroll taxes from 7.3 million employers.

The FY 2006 Budget request includes \$966.4 million for the Trade Adjustment Assistance (TAA) and Alternative Trade Adjustment Assistance (ATAA) programs, of which \$259 million is allocated for TAA training, out-of-area job search and relocation allowances and related state administration. This funding request will allow the Department of Labor to provide States with funding for training, income support, and job search and relocation allowances for an estimated 80,000 dislocated workers who were impacted by international trade. In addition, we have implemented a number of key management reforms that are allowing us to more effectively operate the TAA and ATAA programs so workers can get the assistance they need.

#### **Status of Current UI Integrity Initiatives**

Thanks in large part to quick action by this Committee last year on the "SUTA Dumping Prevention Act of 2004," an important initiative to strengthen State unemployment tax integrity is now underway. That legislation requires States to close loopholes that some employers have used to pay less than their fair share of State unemployment taxes. States are expected to enact conforming legislation this year and have already begun to investigate cases of SUTA dumping that are illegal under their current statutes. This Act also provided States with an important new tool to quickly detect and prevent overpayment of benefits; State UI agencies have access to the National Directory of New Hires to identify individuals who went back to work but continued to claim UI benefits. The Department is working closely with the Office of Child Support Enforcement at the Department of Health and Human Services to establish communications systems, develop the technical specifications, and put required data safeguards in place for States to begin accessing the National Directory of New Hires data.

#### **Legislative Proposals to Strengthen Financial Integrity of UI Programs**

As you know, the UI program plays a vital role in America's workforce investment system by providing temporary income support to eligible workers who have lost their jobs through no fault of their own. UI helps the unemployed bridge the financial gap between jobs.

For FY 2006, the Administration proposes a set of amendments to Federal law that will strengthen the integrity of the UI system. These amendments will give States access to new tools and resources to: (1) prevent, detect, and collect benefits that were paid to individuals who were not entitled to them; (2) collect delinquent taxes from employers; and (3) upgrade aging State information technology systems.

Since 1987, States have investigated a small but statistically valid sample of weekly payments taken from the three to four million paid claims each week. Data from these investigations permit us to estimate the amount of benefits that are improper—both overpaid and underpaid. About 95% of all of these improper payments are overpayments. Most overpayments result from claimants failing to meet statutory eligibility requirements, such as searching for work or returning to work and continuing to claim benefits. In 2003, overpayments were estimated to be \$3.8 billion, or just over 9% of the nearly \$41 billion in State UI payments that year. States detected about \$1.2 billion of these and recovered \$504 million. We believe that our FY 2006 Budget proposals will enable States to reduce significantly overpayments and increase the amount of overpayments that are recovered.

##### **1. Use 5% of Recovered Overpayments for Benefit Payment Control Activities**

States' efforts to reduce and recover overpayments are limited by the amount of administrative funding available. Currently, Federal law requires that all recoveries of overpayments go into the State's unemployment trust fund, to be withdrawn only to pay UI benefits. We propose boosting resources available to States to pursue integrity activities by permitting them to use a portion of those recovered funds to deter, detect, and collect overpayments. States may specify the amount—up to 5%—of overpayment recoveries to be used exclusively for these purposes. This would provide a new source of funds for States to use to reduce fraudulent and improper payments, giving them the resources they need to expand their efforts. This proposal is estimated to yield a net savings of \$229 million over 10 years.

## ***2. Allow Collection Agencies to Retain Up to 25% of Recovered Overpayments***

Currently States are reluctant to use private collection agencies, primarily because they would have to divert UI administrative grants from other services to pay the collection agency costs. We propose permitting States to allow collection agencies to retain a limited portion—up to 25%—of the fraud overpayments and delinquent employer taxes they recover. States would be expected to first exhaust their established means of collecting overpayments and delinquent taxes before engaging such collection agencies. To prevent abusive or unfair tactics, any State contract with a collection agency must specify certain safeguards, including that the collection agency follow the Fair Debt Collection Practices Act. We anticipate a net savings of \$369 million over 10 years by allowing this additional method of collection of overpayments.

## ***3. Impose At Least 15% Fine on Overpayments***

All States impose monetary penalties on employers who pay their taxes late. However, most States do not impose monetary penalties on individuals who obtain benefits fraudulently. Penalties can serve as both a deterrent to overpayments and an incentive for repayment. We propose requiring States to impose a fine of at least 15% of the overpayment on individuals who defraud the system. States' use of the penalty funds would be limited to additional efforts in deterring, detecting, and collecting overpayments. Recently, the State of Washington imposed such a penalty and has seen a considerable increase in overpayment collections. We estimate that this proposal would yield a net savings for State UI programs of about \$798 million over 10 years.

## ***4. Encourage Employer Response to State Requests***

Information provided by employers is essential in determining the eligibility of unemployed workers who file a claim for UI benefits. However, employers sometimes fail to respond to State queries about the reasons workers are separated from employment, and this can lead to improper UI payments to ineligible workers who quit their jobs without good cause, or were discharged for work-connected misconduct. Despite the administrative and benefit costs created by these mistakes, employers often do not bear any responsibility for the costs of these overpayments. Indeed, after an overpayment is established, States may relieve the employer of those benefit charges. We propose requiring States to impose benefit charges on employers for any UI benefits improperly paid as a result of their late or incomplete responses to State agencies, unless the non-response is due to a good faith error. This will encourage employers to respond promptly to State requests for information about their former workers and will generate an estimated \$227 million in savings over 10 years.

## ***5. Add Delinquent Overpayments to Debts Offset by Federal Tax Refunds***

About half of overpayments identified each year are not recovered. Under current law, individuals' Federal income tax refunds are used to offset delinquent child support obligations, debts owed to Federal agencies, and State income tax debts. We propose adding delinquent UI overpayments to the list of debts that can be offset by Federal tax refunds. This would recover an estimated \$3.1 billion in overpayments over 10 years.

## ***Legislative Proposal for Infrastructure Loans***

An additional legislative proposal is designed to address another UI program need: updating information technology (IT) infrastructure. State UI programs require large and complex benefit and tax processing systems, and service delivery by telephone relies heavily on telecommunications hardware and software. Aging IT systems present a significant risk to States. Older systems are also more difficult and costly to maintain. However, not all States have an effective funding mechanism available to replace and enhance aging technology components.

We propose allowing States to borrow funds from the Unemployment Trust Fund in order to replace/update their UI IT systems, including using new technology to establish linkages with programs that offer reemployment services to UI beneficiaries. This proposal is similar to the current arrangement in that States can borrow from the Unemployment Trust Fund when their benefit accounts become insolvent. Borrowing States would be liable for repayment of principal and interest. By giving States the opportunity to address their IT needs, this proposal will promote timely and accurate benefit payment to unemployed workers, prevention and detection of improper benefit payments, and facilitation of reemployment.

### **Legislative Proposal to Strengthen Funding for Single-Employer Pension Plans**

The Bush Administration believes that the pension promises companies have made to their workers and retirees must be kept. Single-employer, private sector defined benefit pension plans cover 16 percent of the nation's private workforce, or about 34 million Americans. The consequences of not honoring pension commitments are unacceptable—the retirement security of millions of current and future retirees is put at risk.

However, the current system does not ensure that pension plans are adequately funded. As a result, pension promises are too often broken.

Termination of plans without sufficient assets to pay promised benefits has a very real human cost. Many workers' and retirees' expectations are shattered, and, after a lifetime of work, they must change their retirement plans to reflect harsh, new realities. Underfunded plan terminations are also placing an increasing strain on the pension guaranty system.

Increased claims from terminations of significantly underfunded pension plans have resulted in a record deficit in the single-employer fund of the Pension Benefit Guaranty Corporation (PBGC). For the fiscal year ending September 30, 2004, the PBGC reported a record deficit of \$23.3 billion in that fund, more than double the year-earlier deficit of \$11.2 billion. The increasing PBGC deficit and high levels of plan underfunding are themselves a cause for concern. More importantly, they are symptomatic of serious structural problems in the private defined benefit system.

It is important to strengthen the financial health of the defined benefit plan system now. If significantly underfunded pension plans continue to terminate, not only will some workers lose benefits, but other plan sponsors, including those that are healthy and have funded their plans in a responsible manner, would likely be called on to pay far higher PBGC premiums. Underfunding in the pension system must be corrected now to protect worker benefits and to ensure taxpayers are not put at risk of being called on to pay for broken promises.

The Administration has developed a reform package to improve pension security for workers and retirees, stabilize the defined benefit system, and avoid a taxpayer bailout of the PBGC. The President's proposal is based on three main elements:

First, the funding rules must be reformed to ensure that plan sponsors adequately fund their plans and keep their pension promises. The current system is ineffective and needlessly complex. The rules fail to ensure that many pension plans are, and remain, adequately funded.

Second, disclosure to workers, investors and regulators about pension plans' status must be improved. Workers need to have good information about the funding status of their pension plans to make informed decisions about their retirement needs and financial futures. Too often in recent years, participants have mistakenly believed that their pension plans were well funded, only to receive a rude shock when the plan was terminated without enough assets to pay all promised benefits. Regulators and investors also require more timely and accurate information about the financial status of pension plans than is provided under current law.

Third, premium rates must be updated to reflect current costs and revised to more accurately reflect the risk of a plan defaulting on its promises and to help restore the PBGC to financial health. The current premium structure encourages irresponsible behavior by not reflecting a plan's true level of risk.

The proposal would strengthen the defined benefit system and restore solvency to the PBGC, so that the nation's workers and retirees can be confident of the secure retirement they have worked for all their lives.

### **Implementation of the Trade Adjustment Assistance Reform Act of 2002**

The Trade Adjustment Assistance (TAA) program is an integral part of the comprehensive workforce investment system. TAA helps workers dislocated due to foreign trade adjust to changing market conditions and shifting skills requirements. Many of these workers are being dislocated from jobs that are lost permanently from the domestic economy, requiring the skills of affected workers to be completely retooled. In many cases, this is complicated by mass layoffs or plant closures that occur in single-industry towns, which makes finding comparable employment in the same geographic area difficult.

The TAA program should be a vital part of States' workforce and economic development strategies in order to maximize opportunities for trade-affected workers. Under the TAA program, training opportunities that are designed to provide sustainable employment once completed are made available for trade-affected workers. However, training alone will not return a worker to the workforce. The Department has been proactive in encouraging the integration of the TAA program with the other parts of the workforce investment system, such as the Workforce Investment

Act's Dislocated Worker program. Through a series of policy advisories and workforce forums delivered nationwide, the Department is emphasizing the importance of a seamless system that provides reemployment services financed by complementary programs and delivered by One-Stop Career Centers to trade-affected workers. Such services include assessment, counseling, career planning, job search, and placement services.

Successfully integrating the TAA program into the workforce investment system becomes more critical as the Department implements a reengineered business model for making more timely determinations on trade petitions. Through this re-engineering process we have been able to reduce the time it takes to process petitions to less than the statutory limit of 40 days. On average we process petitions in approximately 31 days. This reduced certification time allows workers to be able to access the full range of employment and training services available to them and quickly obtain new employment.

Another major reform we have implemented is the distribution methodology for allocating TAA training funds to the States. Prior to our reform, these capped training funds were distributed on a "request" basis, meaning that States would request and be awarded monies throughout the fiscal year. We found that this provided little fiscal accountability for these funds as some States carried over excess funds while other States ran short. In fact, this approach caused an inequitable distribution of funds when comparing State funding levels to State TAA participant levels.

Our current methodology distributes 75 percent of available TAA training funds at the beginning of each fiscal year to States based on their prior years' TAA participant and training expenditures levels. We hold 25 percent of the funds in reserve to be distributed to States to respond to unanticipated needs that arise throughout the fiscal year. This change in the distribution methodology has assured that the limited training funds are being provided to the maximum number of TAA participants who need training services. In addition, we have focused on the leveraging of resources from among the State WIA Dislocated Worker formula grant program, the TAA program, and National Emergency Grants (NEG) to assure that trade-affected workers are getting the full array of reemployment resources, while promoting increased State fiscal and performance accountability.

#### **WIA Plus Consolidated State Grants**

I will now briefly discuss an important component of the President's proposal for reforming job training programs and reauthorization of the Workforce Investment Act (WIA)—the WIA Plus Consolidated State Grants. The current system of Federal job training programs is too complex, involving multiple funding streams and various Federal, State and local bureaucracies. This has caused a duplication of effort and diverted resources that should be used to train workers for high-growth jobs. WIA Plus Consolidated State Grants build on the President's call to consolidate four of our Department's State training and employment programs: WIA Adults, WIA Dislocated Workers, WIA Youth, and the Wagner-Peyser Employment Services.

In addition to the consolidation of those four funding silos, States will have the option to consolidate in this single grant their share of funds from several additional Federal job training programs that are currently administered by the Departments of Labor (Trade Adjustment Assistance training and certain programs providing services to veterans), Education (Adult Education and Vocational Rehabilitation State Grants) and Agriculture (Food Stamp Employment and Training). Federal resources for these other programs total more than \$3.6 billion. Together with the Department of Labor's core WIA consolidated grant, Governors could be provided with their State's share of more than \$7.5 billion in Federal employment and training resources through a single State grant. By consolidating programs, States will be empowered to train more workers; design a job training and service delivery system that trains workers for jobs in the 21st Century economy; rationalize the way they deliver workforce-related services; improve results; and reduce administrative overhead.

In an increasingly competitive global economy, States must be able to quickly respond to economic downturns by having the increased flexibility to pull multiple job training programs and funding streams together. As an example, if a State or local area experienced a mass layoff, the WIA Plus Consolidated State Grant funds would provide the increased flexibility needed to design programs that correspond with current economic development and labor market needs, specific to their State economy.

If a State decided to include Trade training resources in its WIA Plus Consolidated State Grant, trade-affected workers would obtain more seamless access to the important services not available under the Trade program. Workers will be able to get such services as job search assistance and career counseling, in addition to the

TAA services of job search and relocation allowances, occupational skills training, income support, and the Health Coverage Tax Credit. It is important to note that eligible trade participants would still have the same access to the capped training dollars as they do under current law. Moreover, trade-affected dislocated workers would continue to be able to receive Trade Readjustment Allowances (TRA) under the same conditions as current law because TRA would not be part of the WIA Plus Consolidated State Grant.

For States choosing to consolidate Trade training funds, Governors would describe in their WIA Plus State Integration Plan how trade participants would be served under the WIA Plus Consolidated State Grant, including how services will be maintained to eligible workers. This will ensure that trade-displaced workers receive the training funds made available under current law.

WIA Plus Consolidated State Grants will help streamline service delivery systems and shift excessive administrative costs towards providing additional training services. Ultimately, the proposed consolidation will ease administration since the State will be responsible for developing only *one* State Integration Plan, administering *one* funding stream and reporting on *one* set of performance measures.

#### **Restructuring the Black Lung Disability Trust Fund**

I also want to highlight the Administration's proposal for legislation to restructure and eventually retire the debt of the Black Lung Disability Trust Fund (BLDTF). The BLDTF is facing a growing debt, which in Fiscal Year 2006 will exceed \$9 billion. The Trust Fund's revenues, which consist primarily of excise taxes on coal, are insufficient to repay the debt's interest or principal. Under current conditions, this indebtedness will continue to grow, with the BLDTF never becoming solvent, even when benefit outlays have declined to a level approaching zero.

To solve this problem, the Administration will propose legislation that will authorize a restructuring of the BLDTF debt; extend until the debt is repaid current BLDTF excise tax rates, which are set to decline in January 2014, and provide an estimated one-time net payment of \$3.8 billion to compensate the General Fund of the Treasury for forgone interest payments.

#### **Legislative Proposal to Improve Access to Health Benefits**

The FY 2006 Budget also reiterates the Administration's support for Association Health Plans legislation that would allow small businesses, civic, faith-based, and community associations, and others to pool together through their trade and professional associations to provide health benefits for workers and their families. By joining together, small businesses and other association members would benefit from similar economies of scale, uniform regulation and administrative efficiencies enjoyed by large employers and labor unions. Association Health Plan legislation is a key component of the President's plan to improve access to quality, affordable health coverage for all Americans.

#### **Conclusion**

Thank you for the opportunity to describe our efforts to implement new strategies to improve the management of existing programs and fulfill our mandate to serve the American workforce. I look forward to working with the Committee on these issues. This concludes my remarks. I will be glad to respond to any questions you may have.

---

Chairman THOMAS. Thank you very much, Madam Secretary. Gentleman from Florida, the Chairman of the Trade Subcommittee, wish to inquire?

Mr. SHAW. Yes, Mr. Chairman, and I would like to join with you in welcoming Secretary Chao before this Commission. She always makes a delightful witness, and we always learn from her. In your remarks, you mention the question of private pension funds and begin to full fund these plans, which I agree with, and I think it is a very good—I have a brother who is a retired United Airlines pilot, and he is very nervous about where his pension may be going. If it were a full funded pension plan, I do not think that there would be any great concern about it. I also worry very much about the largest pension fund, so-called fund, in the entire country



if not the entire world, and that is our Social Security system, which is totally unfunded except with indication of debt by the Federal Government to the Federal Government, which, in itself, is simply a statement that we owe an obligation, and it is not a real asset. Unfortunately, so many of our American people feel that there is cash in the system when we all know better that there is not. I would like to turn for just a moment to a question or a statement that Mr. Rangel made, and that is that in his City of New York that 50 percent of the minorities are unemployed. Do we have any targeted programs to the groups of high unemployment and the pockets of poverty that obviously exist that would create this type of unemployment?

Ms. CHAO. Absolutely. First of all, the unemployment rate of New York State is about 6.5 percent—New York City is about 6.5 percent. The national unemployment rate is about 5.4 percent. The entire workforce development system should be the resource that long-term unemployed workers or those who are hard to place workers should seek assistance and find a comforting place. What we are trying to do now is to improve the workforce development system. It is a wonderful system. The people who work in it are caring and compassionate, and they do a great job. We want to challenge ourselves to do better. Right now, the system, the one-stop career center is a delivery system, but there are multiple funding streams which are very inflexible. So, for example, if you are a long-term dislocated worker, you may not be eligible for dislocated worker funding by definition of the statute. If WIA reauthorization were to occur, and greater flexibility were introduced, there would be more resources available to help the harder to place and the longer term unemployed.

Mr. SHAW. Mr. Rangel also noted that even those who had education, that many of them were being educated for jobs that do not really exist. I know in my own district, in Palm Beach County, the Palm Beach Community College reaches out and communicates with the private sector so that they are sure that they are gearing the educational endeavors toward employment, which is tremendously important. Would you like to comment on that?

Ms. CHAO. Well, the President has asked for \$500 million last year and was funded about \$200 million in his High Growth Job Training Program, which is a partnership with the community colleges. Community colleges do a great job of training workers seeking new opportunities in the workforce, and there are new jobs out there. We need to reskill workers who want to be reskilled, and the community colleges are partnering very nicely with the one-stop career centers.

Mr. SHAW. Thank you. I yield back, Mr. Chairman.

Chairman THOMAS. I thank the gentleman. Does the gentleman from New York wish to inquire?

Mr. RANGEL. What specific programs, Madam Secretary, do you have for veterans, mature adults that find it very difficult to get into the job market?

Ms. CHAO. We have been very focused on helping veterans who are returning to the civilian workforce—

Mr. RANGEL. What is the name of the program?

Ms. CHAO. We have the Disabled Veterans Opportunity Program (VDOP), we have the——

Mr. RANGEL. What does that mean?

Ms. CHAO. It is disability—it is a program that puts counselors in one-stop career centers.

Mr. RANGEL. No, no, ma'am.

Ms. CHAO. Yes.

Mr. RANGEL. I am a veteran. I am very emotional about this. Do you have any program that calls itself——

Ms. CHAO. We do.

Mr. RANGEL. A veterans' program?

Ms. CHAO. Absolutely, we have a lot.

Mr. RANGEL. What is the name of that program?

Ms. CHAO. Will you hold on for a second, please?

Mr. RANGEL. Yes, ma'am.

Ms. CHAO. It is called the Disabled Veterans Opportunity Program, and it is part of the Veterans Employment Training Services (VETS).

Mr. RANGEL. I am not talking about disabled veterans. I am talking about healthy veterans. I am not talking about veterans' hospital type of programs. Just because you are a veteran does not mean you are disabled. We are talking about people who are coming out with low job skills who want to go to work.

Ms. CHAO. Yes, we have a whole agency that is devoted to them. It is called the Veterans Employment——

Mr. RANGEL. That is what I am trying to find out, because I know you do not mean it is a veterans' disability program, unless I misunderstand the word disability.

Ms. CHAO. I thought that was your question. I am sorry.

Mr. RANGEL. No, ma'am, I am not talking about crippled soldiers.

Ms. CHAO. Okay.

Mr. RANGEL. I am talking about veterans out looking for work. What is the name of their program if they are not disabled?

Ms. CHAO. It is the VETS.

Mr. RANGEL. What is the funding for that?

Ms. CHAO. It is about \$300 million.

Mr. RANGEL. Well, that is not in the information I have. I am going to let someone else deal with that. I understand that from veterans groups that you did have a program that was in the \$200 million, that is the same funding as it was from last year, and that there has been a sharp increase in veterans, and so, therefore, a decrease in the service. So, I am sorry I got emotional with you, but I have got to find out more about that program.

Ms. CHAO. There is no reduction in services at all. In fact, we have increased the budget. There are increases in service, and we have also focused on disabled veterans who are coming back.

Mr. RANGEL. Well, I want to find out as much as I can about that. As a trustee from the Social Security system, do you have any idea when we expect to get a report?

Ms. CHAO. There is a Social Security report that is going to come out on March 23, next Wednesday.

Mr. RANGEL. All right; thank you. In view of the fact that we find a shift from private employers to defined contribution from de-

financed benefits programs, do you think that the guaranteed benefits of Social Security are far more important than they were before in terms of retirement income?

Ms. CHAO. There are three parts of anyone's retirement security. There is personal savings, Social Security, and their employer-provided pension, if there is one. So, all are important.

Mr. RANGEL. The guaranteed benefit, do you believe that this has been considered not a part of the risk of the other portions but a very important part of what someone should rely on that is guaranteed rather than the fluctuations of the market?

Ms. CHAO. I think that Social Security, even when it was enacted, was never meant to be the sole source or the main source.

Mr. RANGEL. No, ma'am, I am not talking about sole source. I am just saying that in terms of the risk of the other sources that they are guaranteed, that it is an anchor type of source.

Ms. CHAO. Well, that is what the President is trying to maintain. He is trying to preserve the strength and the integrity of the Social Security system.

Mr. RANGEL. Well, as a trustee, do you believe that the private accounts are guaranteed?

Ms. CHAO. Do you mean the voluntary retirement accounts?

Mr. RANGEL. Whatever you want to describe it.

Ms. CHAO. I do not think it is private. After all, the government would be in charge of the management of it.

Mr. RANGEL. The very personal freedom of choice accounts that the President is going to 60 cities in 60 days to advocate, those types of accounts?

Ms. CHAO. I believe that is called the voluntary retirement accounts.

Mr. RANGEL. The voluntary retirement accounts, are they guaranteed?

Ms. CHAO. No, they would not be guaranteed, because it would only—

Mr. RANGEL. I understand.

Ms. CHAO. Okay.

Mr. RANGEL. We are on the same side.

Ms. CHAO. Social Security is not guaranteed either. At this rate, it is going to go bankrupt.

[Laughter.]

Mr. RANGEL. Madam trustee, do you really believe that the funding that we get today as a benefit is as risky as funds that would be in a personal account?

Ms. CHAO. I think the question now is we are all trying to understand what the problem is.

Mr. RANGEL. We are all trying to understand what the President thinks the problem is, but I am trying to get an answer from you as do you believe that—

Ms. CHAO. The President thinks it is important to have a common understanding of the problem. From there, we can come and work together and come to some common solutions.

Mr. RANGEL. Mr. Chairman, this Secretary is a very knowledgeable lady, but you are not helping in trying for us to get a better understanding of the problem, but I thank you for your efforts.

Chairman THOMAS. The gentleman's time has expired. Does the gentleman from Michigan wish to inquire?

Mr. LEVIN. Yes. Welcome.

Ms. CHAO. Thank you.

Mr. LEVIN. I read in the report last week that there may be hearings here on CAFTA and in the Senate after we return. A couple of years ago, we provided money to Labor, to the Department, to study how core labor standards, international labor standards, were being handled in a number of countries, and as a result of that, a report was commissioned by the International Labor Rights Fund to conduct an analysis in Central American countries. Their report was given to you I think now some years ago. We filed a request under the Freedom of Information Act (FOIA) in May of 2004 to receive a copy of that report. When that was denied, we appealed it in October of 2004. It is now March of 2005. You have not yet responded to that appeal. Why not?

Ms. CHAO. I am sorry if—first of all, I am not aware of that FOIA request.

Mr. LEVIN. You are not aware of the FOIA request?

Ms. CHAO. No, I am not, not that one, no. We receive thousands of FOIA requests. I will look into it.

Mr. LEVIN. Are you aware of the report?

Ms. CHAO. No, I am not.

Mr. LEVIN. Is CAFTA coming up, do you think, this year?

Ms. CHAO. We are involved—

Mr. LEVIN. Would you like it to come up this year?

Ms. CHAO. I am afraid that is not my question to answer. I mean, that is not. I do not determine that.

Mr. LEVIN. Do you have any preference?

Ms. CHAO. This is an issue which it is up to the Congress, and it is up to the U.S. Trade Representative.

Mr. LEVIN. Will you tell me when you will give me an answer?

Ms. CHAO. I will go back this afternoon and find out what the status is.

Mr. LEVIN. You will give me an answer as to when you are going to—do you usually not answer appeals when made by Members of Congress?

Ms. CHAO. Of course not.

Mr. LEVIN. So, this is October? How many months between October and March? Six. So, 6 months, is that your usual time lag in order to respond to FOIA requests from Members?

Ms. CHAO. I would hope not, but I will look into it for you.

Mr. LEVIN. Is there anybody behind you who has read that report? Would you ask them?

Chairman THOMAS. If the gentleman would yield, while the Secretary is inquiring, the Chair intends, if it is all possible, to continue the hearing. The Chair understands there is a vote on an amendment, and then, there will likely be a recommit and final passage. So, the Chair will try to keep going through the 15-minute amendment vote, and then, we will have the discussion on the motion to recommit. So, if Members who are not readily next in line or want to go vote and come back, the Chair will try to maintain order and pick up people as they come and go so that they can have an opportunity to question the witness.

Mr. LEVIN. Okay.

Chairman THOMAS. I thank the gentleman for yielding.

Mr. LEVIN. Thank you.

Ms. CHAO. What I have just been told is that the last time you inquired about this, the report was not finalized, it was not finished.

Mr. LEVIN. Is it finished now?

Ms. CHAO. It is done by the International Labor Affairs Bureau. We are going to have to go and ask.

Mr. LEVIN. All right; you mentioned quickly, you said something about Social Security going, in your word, bankrupt. When do you say that is going to happen?

Ms. CHAO. The President has always said——

Mr. LEVIN. No, no, when do you think it is going to happen? You are a trustee. What is the——

Ms. CHAO. I think the year was 2042 when the fund will become insolvent.

Mr. LEVIN. Not bankrupt.

Ms. CHAO. That is correct.

Mr. LEVIN. So, you withdraw the word bankrupt?

Ms. CHAO. That is correct.

Mr. LEVIN. Thank you.

Chairman THOMAS. The gentleman yields back the balance of his time. The gentlewoman from Connecticut wish to inquire?

Mrs. JOHNSON. Thank you, Mr. Chairman and welcome, Secretary Chao. First of all, let me congratulate you on this proposal to allow States to merge the various job training grants. Five years ago, as Chairman of the Subcommittee on Human Resources of this Committee in combination with the Chairman of the parallel Committee in the Education and Labor Committee, we held a joint hearing, and we had President Clinton's appointees beg us to do this.

As one of the States that piloted the one-stop centers, I have been accosted by people who advise unemployed people saying I am sitting here doing nothing because there are no TAA people available. I could be helping other people who are unemployed. It is really outrageous that Congress has been unable to overcome their silo approach to problems and recognize that unemployed people need help. Our one-stops are terrific. The Department of Labor resources at the State level have become far more sophisticated in both training and what jobs they are training for, and so, I really thank you for your leadership on that grant issue. It passed without much comment on the House floor, at least in the House so far, you have gotten no credit for it, but I can tell you people have been pressing for this for years, and I want the record to note that you deserve credit for leadership in this regard. Now, my question goes to last year, we passed bipartisan antifraud legislation. How has the Department of Labor—this is in regard to employers paying the right amount of unemployment taxes—how has the Department of Labor worked with States to assure that these problems are addressed?

Ms. CHAO. We understand very well how important our programs are, and we want to ensure that they are being used in a way that will optimize the beneficiaries' needs, and so we indeed

have devoted about \$30 million to ensuring that we minimize fraud and abuse of the program, and especially with identity theft increasing as well, it is very important that we focus on this problem.

Mrs. JOHNSON. It certainly is, and I appreciate the Department's healthy working relationships with our State Department of Labor. That has made a lot of things happen in a way that in the past they really have not.

Mr. Chairman, I yield back the balance of my time, and I will go vote.

Chairman THOMAS. I thank the gentleman. The gentleman from Louisiana, the Chairman of the Social Security Subcommittee wish to inquire?

Mr. MCCRERY. Mr. Chairman, at this time, I do not have any questions, but I would like to reserve the opportunity to question later.

Chairman THOMAS. The Chair, then, would indicate that the Committee would stand in recess, and the Chair cannot provide a specific time other than 5 minutes after the last vote, because we may, in fact, go through a series of procedural votes following this particular amendment. The Chair hopes to return no later than 11:30 a.m. but five minutes after the close of the last vote. The Committee stands in recess.

[Recess.]

Chairman THOMAS. The Committee will reconvene.

Mr. MCDERMOTT. Thank you, Mr. Chairman. Welcome, Secretary Chao. According to a biennial report of the Bureau of Labor Statistics which comes out of your office, 5.3 million Americans were laid off their jobs that they held for more than 3 years between 2001 and 2003. Sixty-5 percent of those displaced workers had long work histories and were reemployed by 2004, so two-thirds. Now, you have got one-third that did not make it. The majority of them were reemployed, lost wages as compared to their prior job, and one-third lost 20 percent or more of their previous earnings. That is your situation.

Johns Hopkins University did a study with the National Science Foundation that the inflation adjusted incomes of families in the bottom fifth of the economy bounced up and down more than 25 percent in the early seventies, but by the middle of this decade, those annual fluctuations doubled as much as 50 percent, from 47 to 79. Real family growth income for the lowest fifth of households was 116 percent. It was 99 percent for the top fifth. Between 1979 and 1998, the bottom fifth real family income decreased, decreased 5 percent, and the top fifth increased by 40 percent. Now, that raises several questions about what is happening in our economy, and one of them is if you are unemployed, and you were making \$18 an hour working for Boeing, and you suddenly are offered a \$10 an hour job flipping hamburgers, why should I go take that \$10 an hour job when I can wait, and maybe I will ultimately get a job that pays me something more than \$10? It has been suggested that unemployment insurance to cushion that difference between what you used to make and what you make today is a good proposal. It would get people back to work quicker if they knew that they were going to be able to match their income, and in an ownership society—the President is all big about this ownership so-

ciety business. How can you, in an ownership society, know where you are going to be if your income fluctuates by 50 percent? How do you buy a house? How do you buy a car? How do you fund your kids' education, how do you anything when that is what is going on? So, the proposal to cushion that kind of fluctuation and take some of it out seems like a good proposal. Is the President willing to consider any such thing?

Ms. CHAO. The President signed the richest TAA program in our country's history. Currently now for a worker in Boeing, if they were dislocated, they are probably receiving 104 weeks of unemployment insurance, 104 weeks of training, 104 weeks of direct income support, 65 percent of their health care is taken care of, and there is wage insurance. If you are over the age of 50, and they get a new job that pays less than their old job, the government will come in and pay 50 percent of the differential.

Mr. MCDERMOTT. Now, you are talking about people covered by the trade preference business.

Ms. CHAO. Right.

Mr. MCDERMOTT. How about somebody who is just out there working for a company, and they lose their job? It is not all from Boeing. It is not all related to trade.

Ms. CHAO. That is right.

Mr. MCDERMOTT. The loss of jobs in this country. What about all of the other people?

Ms. CHAO. Well, let me respond to your concerns about wages. Hourly wages for production and nonsupervisory workers are up by about 3 percent in the past year. Hourly compensation in the form of the non-farm business sector is up by about 5.2 percent, and compensation, as measured by the Employment Cost Index, is up by about 6 percent overall. Having said that, there is a whole host of—that is what the Department of Labor is there for, is to help workers who have lost their jobs and to ensure that they have the counseling and the skills training that they need to be able to access good paying jobs in high growth industries.

Mr. MCDERMOTT. Do you agree that people stay on unemployment longer than they might if they are only offered low-wage jobs?

Ms. CHAO. About 50 percent of those who are on unemployment insurance get a job at about 9.3 weeks.

Mr. MCDERMOTT. The others just hang on, waiting, hoping it will get better?

Ms. CHAO. No, that is the average, and so, some are shorter, and others are longer, and we are very concerned about the long-term unemployed, which is why we are seeking reauthorization of workforce development, WIA, so that there is greater flexibility to allow Governors to have the access to different funding streams which are coming into their States.

Mr. MCDERMOTT. Have you looked at all your proposals by talking to Governors and States about their unemployment programs? Have you got the Governors' buy-off on all of the programs that are going to be proposed in this Congress?

Ms. CHAO. The reauthorization of the WIA is currently ongoing, and so, it has been passed in some similar form by the House the previous 2 years, and the WIA-plus is a different and new form

which is our effort to continue to work with Congress to come up with new ideas, and so, that is currently being discussed.

Mr. MCDERMOTT. That was not my question. My question was have you talked to the Governors?

Ms. CHAO. Yes.

Mr. MCDERMOTT. Have they registered anything—

Ms. CHAO. Yes, of course, we have talked to the governors and their staffs, yes.

Mr. MCDERMOTT. They are all saying this is fine.

Ms. CHAO. I think no, that is not true, of course; you know that.

Mr. MCDERMOTT. Yes.

Ms. CHAO. Some of them are learning more about the program, and we are just rolling it out now.

Chairman THOMAS. The gentleman's time has expired.

Mr. MCDERMOTT. Thank you, Mr. Chairman.

Chairman THOMAS. Does the gentleman from Michigan wish to inquire?

Mr. CAMP. Well, I do, thank you, Mr. Chairman, and thank you Secretary Chao, for being here today. I want to thank you for your continued efforts on behalf of displaced workers, particularly your personal responses to plant closings in my district, and I want to thank you for that. For the last couple of years, the Department of Labor has distributed TAA funds differently than in years past, and instead of receiving one lump sum, States are getting a smaller base payment up front, and then, throughout the year, they can re-apply as their caseload requires or demands. I just have a couple of questions: how this is working for the Department, how it is working for the States, and I do want to thank you at least with respect to Michigan, the work that the Department has done with the State of Michigan, particularly in trying to develop the assumptions that determine these payments and working with the State on that. I wondered if you had any comments on that and what the pluses and minuses of this process might be.

Ms. CHAO. The TAA program is one that we have worked very hard to make as effective as we can, and the statutory timetable is 40 days, and we have reduced that to about 31 days. So, there is a very quick turnaround. Second, as I mentioned, this is the richest program that our country has ever had, and it really enables workers who are seeking jobs to access high growth opportunities in sectors that again have high growth potential, and so, that is all done through the common delivery system, the one-stop career centers. Right now, for recipients, it is kind of confusing, because there are about nine different funding streams. So, the recipient has to be fairly sophisticated in understanding what government programs are available. It is our goal that the funding streams, on a voluntary basis, per State, be allowed to be merged so that the Governors would have an easier time accessing these funds, knowing what the total amount of the moneys are and using it as part of their economic development and workforce training purposes.

Mr. CAMP. If those reapplication payments are received near the end of the fiscal year, what happens to those funds? Do those revert to the Department of Labor? Or can the State continue to distribute those funds?

Ms. CHAO. We basically return it to the States.



Mr. CAMP. All right; and if the State receives a payment from the Department of Labor near the end of the Federal Government's fiscal year, they get to keep that payment and continue to use that for any caseload, any out of work or displaced workers that they have.

Ms. CHAO. Right.

Mr. CAMP. I also want to ask just a brief question about the pilot program on the reemployment accounts. I realize that 21 States received awards out of 22 that applied. I regret my own State of Michigan, which has the second-highest unemployment rate, did not apply for these. What is the Department of Labor doing to work with States to ensure that they are able to access all of these funds and benefits?

Ms. CHAO. Well, first of all, these are all voluntary, so it really does depend on the Governors as to whether they want to have access to an additional pot of money that would be available to them, and this, again, would be targeted at the vulnerable, the especially difficult to place and the long-term unemployed. So, this is an additional pot of money that would be available, and we would hope that Governors would avail themselves of it.

Mr. CAMP. All right; thank you very much. Thank you, Mr. Chairman.

Chairman THOMAS. I thank the gentleman. Does the gentleman from Georgia, Mr. Lewis, wish to inquire?

Mr. LEWIS of Georgia. Thank you very much, Mr. Chairman. Welcome, Madam Secretary, welcome.

Ms. CHAO. Thank you.

Mr. LEWIS of Georgia. How long have you been a trustee of the Social Security Trust Fund?

Ms. CHAO. It is part of the responsibility of being the Secretary of Labor, so it is 2001.

Mr. LEWIS of Georgia. So, you are serving your second term, beginning your second 4 years.

Ms. CHAO. Whoever is the Secretary, yes, yes, I guess—it is not me particularly. It is whoever is the Secretary of Labor, Secretary of the Treasury, and Secretary of Health and Human Services..

Mr. LEWIS of Georgia. I understand that, Madam Secretary. I understand that very well. What is your understanding of the President's proposed private accounts? How do you see this fitting into strengthening Social Security?

Ms. CHAO. Well, we have got a baby boomer generation that is retiring. We will have an insolvent situation in 2042. Sixteen workers, as you well know, in 1950, supported one retiree. Now, we only have three workers supporting one retiree. So, to preserve the system, while it is not in crisis now, something has to be done.

Mr. LEWIS of Georgia. Madam Secretary, is there such a thing as a Social Security Trust Fund? We have heard just a few days ago that no such thing really existed. I would like for you to elaborate.

Ms. CHAO. No, it is a pay as you go system. It is a pay as you go system.

Mr. LEWIS of Georgia. Can you tell me what do you mean by that?

Ms. CHAO. Basically, a person who goes to work has Social Security taxes taken from them, and then, that Social Security tax is used to support the retirement of someone who is retired. So, it takes about 16 workers—it took about 16 workers to support one retiree in 1950, and only—right now, there are about three workers, because we have a shrinking workforce.

Mr. LEWIS of Georgia. Madam Secretary, as Secretary of Labor, I would like to know from you do you truly believe that Social Security is a significant source of income for retirees, workers, for retired workers, disabled workers, survivors? Does Social Security effect and assure some degree of independence and dignity for our seniors? What would people do without Social Security?

Ms. CHAO. The President agrees with all of that, and he has never said to do without it. What he is trying to do is to maintain the system.

Mr. LEWIS of Georgia. I want to know how you feel.

Ms. CHAO. I feel the same way.

Mr. LEWIS of Georgia. Really?

Ms. CHAO. Yes, we need to preserve the system. That is what we are trying to do.

Mr. LEWIS of Georgia. Do you think by privatizing the system is the best way to strengthen it and to preserve it for generations yet unborn?

Ms. CHAO. Well, first of all, retirees and current retirees are not impacted. This is a voluntary program for young people if they so choose.

Mr. LEWIS of Georgia. Have you been out campaigning for—

Ms. CHAO. No.

Mr. LEWIS of Georgia. You have not spent part of the 60 days with the President?

Ms. CHAO. Not yet.

Mr. LEWIS of Georgia. You plan to do so?

Ms. CHAO. Yes.

Mr. LEWIS of Georgia. Thank you, Madam Secretary.

Chairman THOMAS. I thank the gentleman. The gentleman from Kentucky, Mr. Lewis, wish to inquire?

Mr. LEWIS of Kentucky. Yes, thank you, Mr. Chairman. Madam Secretary, welcome. It is good to see you here. Just following up on the Social Security question, if you do take the personal accounts off the table, as some have suggested, then, what is left to save Social Security for our kids and our grandkids? Yes, Social Security is great for my father who is 88 right now, and it is probably going to be great for me, because I am 58. But my daughter, who is 22, my son, who is 33, and a granddaughter who is 14, I want to look out for their interests for the future. If you take the personal accounts off the table, then, the only thing left for them would be increased taxes at a very significant rate, cutting benefits, means testing. We are looking at some pretty drastic measures if we do not look at personal accounts. I personally believe that we can basically ensure those personal accounts through the Social Security system as it is. So, I think if we do not look at personal accounts, then, we are asking our children to bear a burden that they are not going to be able to bear. Would you comment on that?

Ms. CHAO. Well, Congressman, you are exactly right. The choices are very tough. If, indeed, we do not think of a new way, a third way, we would be cutting benefits or increasing taxes. If you take a 30-year-old today, if the current system continues, they will experience a 27 percent cut in their benefits when they hit retirement.

Mr. LEWIS of Kentucky. Yes. Thank you, Madam Secretary.

Chairman THOMAS. The gentleman from California, Mr. Becerra, wish to inquire?

Mr. BECERRA. Thank you, Mr. Chairman. Madam Secretary, thank you for being here with us. I appreciate your testimony. I would like to continue on the line of questioning regarding Social Security, but I would first like to make sure that I understood your responses to Mr. Levin with regard to the report that was done by the Department of Labor regarding labor standards and enforcement within Central American countries. That report, for which money was provided to the Department of Labor during the 2002 fiscal year, and it apparently was done, and last year, a request was made by Mr. Levin through a Freedom of Information Act, which ultimately was denied by the Department. Are you going to be able to get back to him? I want to make sure I am clear on what your response was. You will be getting back to him? He has appealed the denial. He appealed that denial back in October, and you will be able to get back to him a response as to why you denied or what will happen with that report that was supposed to be published?

Ms. CHAO. Of course. We respond to every question by the Committee. We have already done so.

Mr. BECERRA. Thank you. I think he asked for a time line, and I am not sure if you are prepared to give a time line, but do you know more or less when he can expect to receive a response?

Ms. CHAO. As soon as I get back to the office, I will take a look at this.

Mr. BECERRA. I appreciate that very much. On Social Security, as one of the—what is it?—six trustees for Social Security and with the fiduciary financial responsibility to sustain the Social Security system, I am wondering if you can comment on a couple of things. You mentioned that Social Security is not guaranteed, and your quote was it is you said it is going bankrupt. First, I am wondering, if you can tell me—

Chairman THOMAS. Will the gentleman yield briefly?

Mr. BECERRA. Yes.

Chairman THOMAS. In the response to the gentleman from Michigan, the Secretary indicated that the word insolvent was what she was intending to use and, in fact corrected the record so that it would be insolvent.

Mr. BECERRA. I appreciate that.

Chairman THOMAS. I thank the gentleman.

Mr. BECERRA. Thank you very much, Mr. Chairman. In terms of the guarantee, are you aware of any time in the 70 years that Social Security has paid out that it has not paid out the benefits that it has guaranteed to any individual who is retired?

Ms. CHAO. No, we want to keep it that way.

Mr. BECERRA. So, when you say it is not guaranteed, is there some basis, factual basis, for you to make the statement, or did you mean that in the future, it might not be guaranteed?

Ms. CHAO. The program is there. We want to make sure that the promises that the government has made to the worker is indeed going to be kept.

Mr. BECERRA. When you said is not, I am wondering if you meant to say in the future will not be versus is not. Is not is present tense, and I am wondering if you are telling us, or you are saying that the system is not guaranteed.

Ms. CHAO. The program will exist. We want to make sure that payments are forthcoming.

Mr. BECERRA. Right, as they are today.

Ms. CHAO. If there is a financial problem, then, the proceeds under the program are not guaranteed.

Mr. BECERRA. As we go out and talk to the American public, is it fair for me to go out into the public and say that the Secretary of Labor says that Social Security is not guaranteed?

Ms. CHAO. If something is not done about the Social Security system, payments under the Social Security program perhaps will not be guaranteed. That is going to be a problem.

Mr. BECERRA. That does not quite answer the question, but I just wanted to make sure, because if I go around the country saying Secretary Chao has said that Social Security is not guaranteed, I am trying to make sure I am not misquoting you.

Ms. CHAO. I think that you can say that the average 30-year-old today will have 27 percent of their benefit cut.

Mr. BECERRA. If we do nothing.

Ms. CHAO. If nothing is done about the Social Security system today.

Mr. BECERRA. That is based on an actuarial projection of what might happen into the future. Would it be fair to say that if the actuarial projection of the trustees were to be the more optimistic projection that it could be that that 27-year-old will get 100 percent of his benefits?

Ms. CHAO. Highly unlikely at this point.

Mr. BECERRA. Is that not one of the projections that you, yourself, as a trustee have issued, that says that if we have growth rates that exceed 2 percent that that 27-year-old will get 100 percent of his benefits if we do nothing?

Ms. CHAO. I am not aware of that.

Mr. BECERRA. You are not aware of that report you issued?

Ms. CHAO. No. I do not know what number you are referring to.

Mr. BECERRA. Okay; your own report—as a trustee, you issue a report.

Ms. CHAO. Yes, it is quite a thick report.

Mr. BECERRA. Yes, it is a report that you issue, where you indicate based on what your demographers and your statisticians and your economists tell us that if we have growth rates that exceed 2 percent, then, we may not have to do anything to Social Security, not that anyone is suggesting that, but we might not have to do anything, because growth rates would be enough to cover any shortfall that might exist for that 27-year-old when he retires. Are you familiar with that aspect of your report?

Ms. CHAO. I think it is very unsettling for workers and retirees to be faced with the uncertainties in their future payment streams, which is—they should not have to face uncertainty in their retirement. What we are trying to do is to make it more secure and stable for them.

Mr. BECERRA. Thank you, Mr. Chairman.

Chairman THOMAS. The gentleman's time has expired. The Chair would indicate that when the term guarantee is used, you would think that could provide you a legal course of action to recover promises not delivered. The courts have said, however, that Social Security benefits are not guaranteed in the sense that you have an absolute right to them. Congress can, and, in fact, Congress has in the past changed the benefits and there is no guarantee that the benefits as currently proposed will, indeed be delivered if Congress chooses to change it, or on a pro rata basis, they would not be available.

Mr. BECERRA. Mr. Chairman, if you would yield on that clarification, I think you are correct: Congress can change the law, but as the law currently exists, it is an entitlement and therefore is a guarantee unless there is a Congress that wishes to change it and no longer guarantee for those workers that they will receive what they have been promised.

Chairman THOMAS. That is correct, and that is what Congress did in 1983 when it cut the benefits by extending the age and, in fact, delayed the cost of living increase.

Mr. BECERRA. So, it would have to be an act of Congress. Members of Congress would have to affirmatively decide that.

Chairman THOMAS. There would have to be a statute change, definitely a statute change, but that does not mean that you have a legal recourse. We are in the last few seconds on a vote on the motion to recommit. We will then have final passage. The Chair will now renew the statement that we will reconvene at 5 minutes after the last vote. The Committee stands in recess.

[Recess.]

Chairman THOMAS. The Committee will reconvene, and the Chair will indicate that Members have an additional half an hour if they so choose to inquire of the Secretary, and the Chair recognizes the gentleman from Washington.

Mr. MCDERMOTT. Thank you, Mr. Chairman. I ask unanimous consent to enter into the record a memo talking about the information that the Secretary gave us about the trade preference utilization in terms of raising incomes by 50 percent. I think the figures come from a very small database, and I would like to put that in the record. Thank you.

Chairman THOMAS. Without objection.

[The information follows:]

Mr. Chairman, in response to my question about the need to help cushion the loss of wages for displaced workers who subsequently become reemployed in lower paying jobs, Secretary Chao responded that these workers may be covered by an existing program if they are over the age of 50. However, this program, known as Alternative Trade Adjustment Assistance (ATAA), provides a wage insurance subsidy to only a very small number of displaced workers who lose earnings upon reemployment. In fact, during its initial implementation, only 42 workers in the entire country participated in the program. This number stands in stark contrast to the millions of workers who are laid off and then find another job at lower wages. If we are serious about helping workers in transition from one job to another, a signifi-

cantly more comprehensive effort is obviously needed. As part of the Trade Act of 2002 (Pub. L. 107-210), Congress established a wage insurance program that is limited in scope, duration and resources. The Alternative Trade Adjustment Assistance program is a 5-year demonstration project that provides partial wage replacement to a strictly defined group of workers. While the Department of Labor has not publicly released data for FY2004, only 42 workers participated in the program in the first two months of its existence in FY2003. According to the President's FY2006 budget, only \$5 million was expended on the program in FY2004.

In order to qualify for the ATAA program, workers must be: (1) eligible for regular Trade Adjustment Assistance (meaning they lost their job for reasons related to trade); (2) be over age 50; (3) forgo the opportunity to participate in TAA-funded training; (4) have no easily transferable skills; (5) obtain reemployment within 26 weeks after being laid off, and (6) earn a wage in their new job that is less than \$50,000 and less than their previous wage. If a worker meets these criteria, the wage insurance program provides 50 percent of the difference between the participant's pre- and post-layoff earnings up to a maximum of \$10,000 over 2 years. According to the government Accountability Office (GAO), implementation of and participation in the wage insurance program has been extremely limited. Only 19 states implemented their wage insurance programs during 2003. Of the 1,962 approved TAA petitions in FY2003, only 60 included approved requests for the wage insurance program. The Department of Labor has not yet released data on implementation in FY2004.

GAO cites several reasons for the lack of participation in the wage insurance program. States have been slow to implement the program, in part because of difficulty developing new payment systems for issuing workers' checks. In addition, state officials and employers have found the wage insurance program eligibility criteria problematic. In order for workers to qualify for most benefits under the general TAA program, a petition must be submitted on their behalf either by the employer experiencing a layoff, a group of at least three affected workers, a union, or the state or local workforce agency. Unlike with other benefits, however, this petition must include a specific request for wage insurance in order for workers to be eligible for the program. Since most petitioners are not aware of all the forms of assistance available under TAA, this requirement prevents many eligible workers from participating in the wage insurance program.

Another problematic eligibility requirement is that employers must confirm that their former employees lack easily transferable skills. It can be difficult for an employer to assess the skill levels of an entire group of affected workers, who may possess a diverse set of skills and skill levels. In addition, the Trade Act requires that to be eligible for the wage insurance program, workers must lack easily transferable skills, yet find reemployment within 26 weeks of layoff. These somewhat contradictory requirements exclude workers who can find reemployment quickly but at lower wages—the very workers who may be best served by a wage insurance benefit. In fact, the only workers who are likely to qualify for the benefit are those who take low-skill jobs at significant pay cuts, and for whom the \$10,000 maximum subsidy falls short of compensating them for their wage loss. I hope the Department of Labor can improve the implementation of the ATAA program so more potentially eligible workers might benefit. However, the eligibility criteria for the program is such that it will always exclude the vast majority of workers who suffer earnings loss upon reemployment. Nevertheless, the program's basic model of providing wage insurance is a step in the right direction. If we learn the right lessons of reducing limitations, obstacles and complexity, such a design might begin to provide meaningful assistance to the increasing number of displaced workers who suffer significant declines in earnings when they find a new job.

Chairman THOMAS. The gentleman from North Dakota wish to inquire?

Mr. POMEROY. I do, Mr. Chairman. Thank you. Madam Secretary, thank you for making yourself available and especially through these delays of votes. We appreciate it. Those of us on the bottom rung sometimes do not get to ask under these circumstances. We appreciate you hanging around. I have been taking a good look at your PBGC recommendations, and I just have a few questions on them. First, it looks like among the recommendations with PBGC, there is going to be a change in investment posture.

Can you describe it? This is not a trick question. It appears as though you are drawing down equity investment in PBGC.

Ms. CHAO. This is not part of a legislative proposal. That is actually within the administrative purview of the PBGC. There is an advisory Committee which recommends that.

Mr. POMEROY. Let me just think about this. Now, how does the governing structure of PBGC work? Who does the head of PBGC report to?

Ms. CHAO. The Secretary of Labor is the Chairman of the PBGC. The Secretary of Commerce and Secretary of the Treasury are also involved.

Mr. POMEROY. Okay; so, we have been talking about your Social Security trustee work. You are also chairman of the board of the PBGC.

Ms. CHAO. That is correct, in an oversight capacity.

Mr. POMEROY. The head of PBGC works for the Board, or does he work for the Department of Labor?

Ms. CHAO. He works for the Board. Actually, it is independent.

Mr. POMEROY. I want to get back to this investment issue.

Ms. CHAO. Yes.

Mr. POMEROY. What are you doing relative to equity investment going forward for PBGC?

Ms. CHAO. PBGC, over the years, has tried to find out and determine through—

Mr. POMEROY. We have got about 3 minutes now, and you are not answering my question. Let me put it to you in a way that can be quickly answered: I understand that present equity investment posture for PBGC is about 30 percent, and I also understand that under the reform proposal, it is going to come down to about 15 percent. Do you have knowledge about this matter?

Ms. CHAO. That is incorrect.

Mr. POMEROY. Okay; would you correct me?

Ms. CHAO. This is an administrative matter within PBGC. It is made by the Investment Advisory Committee, which advises the PBGC.

Mr. POMEROY. Is there going to be a reduction in the equity position for the PBGC?

Ms. CHAO. There already has been.

Mr. POMEROY. What is the dimension of it?

Ms. CHAO. It has increased, it has decreased. Most recently, it has decreased.

Mr. POMEROY. Under the present PBGC Board's direction, and of course, the PBGC Board has authority over the PBGC Investment Board, is there a further reduction in the equity position anticipated?

Ms. CHAO. No, there is not.

Mr. POMEROY. What will be the ultimate equity position of the PBGC? Fifteen percent?

Ms. CHAO. I think it is still about Twenty-eight to 30.

Mr. POMEROY. Fifteen percent is the published figure. You are telling us today that there will be no change in moving out of equities for PBGC?

Ms. CHAO. It depends on the market. If it goes up, it will go up. If it goes down, it goes down.

Mr. POMEROY. No, it also depends on investing strategy. Do you move it into fixed assets, or do you move it into equities?

Ms. CHAO. Yes, and the Advisory Committee makes that decision.

Mr. POMEROY. Well, it is my understanding that they are moving very dramatically into fixed assets. Are you saying that is incorrect?

Ms. CHAO. Recently in the last few years, when the market was down, yes, they did, but in other years, they have moved up.

Mr. POMEROY. What is anticipated going forward, nothing?

Ms. CHAO. No.

Mr. POMEROY. No change?

Ms. CHAO. It is the advisory group's recommendation.

Mr. POMEROY. As Secretary of Labor and Chairman of the Board of PBGC, you are telling us that no change is anticipated in the equity holdings of PBGC. Is that your testimony this morning?

Ms. CHAO. It depends on the market. If you understand the market—

Mr. POMEROY. No, it does not depend on the market. It depends upon the investment strategy.

Ms. CHAO. No, we do not anticipate changing the investment strategy.

Mr. POMEROY. Okay; thank you very much. The other proposals are also interesting. Now, I note in your testimony, you indicate that the reform proposal is to improve pension security for workers and retirees, stabilize the defined benefit pension system, and avoid a taxpayer bailout. Now, I notice the President's budget anticipates \$18 billion in higher premium revenue for coverage under PBGC; is that correct?

Ms. CHAO. Yes.

Mr. POMEROY. Now, it is also my understanding that the increases are 60 percent premium increases for funded plans and much steeper increases for underfunded plans; is that correct?

Ms. CHAO. Will you repeat the question, please?

Mr. POMEROY. It is my understanding that underfunded plans are going to have a hellacious—that is a pejorative term—it is my understanding that underfunded plans are going to have extraordinary premium increases. In fact, I have heard an analysis that in order to get the kind of revenue anticipated to reach \$18 billion as contained in the President's budget, premium increases for underfunded plans would go up potentially from \$9 per \$1,000 of underfunding to \$136 of \$1,000 of underfunding, a 1,400-percent increase. Is that correct?

Ms. CHAO. No, that is not correct.

Chairman THOMAS. The gentleman's time has expired, and the Chair believes this would be an excellent question to have the Secretary and the Department respond in writing to the gentleman in terms of that analysis.

Ms. CHAO. I would be glad to.

Mr. POMEROY. I would be more than happy to, Mr. Chairman, because I believe extraordinary premium increases actually destabilize the entire pension fund system and PBGC as well.

Chairman THOMAS. The Chair is interested in the response to the gentleman's question. The gentleman from California, the



Chairman of the Subcommittee on Human Resources wish to inquire?

Mr. HERGER. Thank you, Mr. Chairman. Madam Secretary, in the last Congress, we passed out of the Subcommittee I chair bipartisan legislation that was passed by the Congress and signed by the President calling on States to take stronger steps to ensure that all employers are paying their proper and fair share of unemployment taxes and not engaging in the abusive practice of State Unemployment Tax Acts (SUTA) (Social Security Act, 1935, 49 Stat. 620) dumping. Could you tell us, please, maybe review for us how the States are implementing this legislation and how the Department of Labor is helping them prevent the type of abuses that brought this issue to our attention?

Ms. CHAO. I would be more than glad to. We are obviously concerned about employers who are not carrying out their responsibilities, and the SUTA dumping initiative would certainly prevent unscrupulous employers from doing that. Six States already have enacted legislation. Two States have bills awaiting Governors' signatures. Nine States' bills passed one house of the State legislature, and 20 States have bills in Committees. Most legislatures were not in session when the law was enacted, and we anticipate that States will introduce and enact legislation by the required date.

Mr. HERGER. Thank you, and can you tell us, are there any other measures that the current budget proposes to limit fraud and abuse involving unemployment benefits?

Ms. CHAO. We are, of course, concerned about fraud and abuse, because we want to make certain that all the funds are going to help people who are really in need. With the increase in identity thefts also, we are very concerned about possible abuses, again, of the beneficiaries themselves under this program, so the President's budget has proposed about an increase of \$30 million to try to tackle this problem.

Mr. HERGER. Thank you, Mr. Chairman. I yield back my time.

Chairman THOMAS. I thank the gentleman. Does the gentleman from Ohio wish to inquire?

Ms. TUBBS JONES. Mr. Chairman, thank you very much. Labor Secretary Chao, it is always good to see you here in our hearing room. How are you today, ma'am?

Ms. CHAO. Thank you.

Ms. TUBBS JONES. How are you today?

Ms. CHAO. Fine, thank you.

Ms. TUBBS JONES. Okay; good. As a woman and minority, you know how heavily women and minorities depend on Social Security as probably their largest or only retirement benefit. You are familiar with that, are you not, ma'am?

Ms. CHAO. What was your point, ma'am?

Ms. TUBBS JONES. The question is are you familiar with the fact that African-Americans and other minorities and women rely heavily on Social Security as a retirement benefit?

Ms. CHAO. I am listening to you, ma'am.

Ms. TUBBS JONES. You could not be.

Ms. CHAO. No, I am.

Ms. TUBBS JONES. The question is are you aware—

Ms. CHAO. I am now, because you have told me that.

Ms. TUBBS JONES. You were not before.

Ms. CHAO. We can have a whole discussion about this, but please, go ahead.

Ms. TUBBS JONES. Just please answer my question, ma'am. You are a member of the Social Security—

Ms. CHAO. I am aware that some believe that, yes.

Ms. TUBBS JONES. That some believe it?

Ms. CHAO. Yes.

Ms. TUBBS JONES. You are a member of the Social Security Trustee Board, are you not?

Ms. CHAO. Yes, ma'am, yes.

Ms. TUBBS JONES. If you would turn around and talk to any of your employees in the back there, they all will—

Ms. CHAO. They are my colleagues.

Ms. TUBBS JONES. Tell you that women and minorities heavily rely upon Social Security as a retirement benefit.

Ms. CHAO. Yes.

Ms. TUBBS JONES. Wow, it took us a long time to get to that point. Now, as a woman and minority and a member of the Social Security Trustee Board, what efforts are you making to assure women and minorities that Social Security will be a benefit that they can receive the guaranteed benefit that they are entitled to and paid into?

Ms. CHAO. As an American, I am concerned about the retirement security of all Americans and the integrity of the system is at stake. The President is trying—

Ms. TUBBS JONES. Understand this, that you are blessed as a woman and a minority to be sitting on that trustee board. For women and minorities fighting for you to have that opportunity, Secretary Chao, you would not be there. So, my question is you are in the room at the table on behalf of those folks. What are you doing to assure women and other minorities that they have an opportunity to be assured of Social Security benefits?

Ms. CHAO. By shoring up the financial integrity of the Social Security system going forward into the future.

Ms. TUBBS JONES. What is your proposal to shore up Social Security going into the future?

Ms. CHAO. I think it is important for us to have an understanding as to what the problem is, and together, we can—

Ms. TUBBS JONES. That is not my question. My question is what is your proposal for shoring up Social Security going into the future?

Ms. CHAO. We are not looking for monologues, okay, we are looking for dialog, and I think it is very important for us to have dialog on this issue.

Ms. TUBBS JONES. I did not ask about we. I said as a member of the Social Security trustee board, which you are, ma'am, what is your proposal? I am trying to have a dialog, and you are giving me crap in your answer.

Ms. CHAO. I do not see why my proposal is that important, frankly. It is the Social Security proposal as put forth by the Administration.

Ms. TUBBS JONES. I understand, but you are a trustee, are you not?

Ms. CHAO. Yes.

Ms. TUBBS JONES. You understand what a trustee's job is, do you not, ma'am?

Ms. CHAO. I am very much aware——

Ms. TUBBS JONES. Because you have a fiduciary relationship——

Ms. CHAO. Of the fiduciary responsibilities.

Ms. TUBBS JONES. Understanding the fiduciary relationship——

Ms. CHAO. Yes, and that is why this proposal as the President has put forward is very necessary.

Ms. TUBBS JONES. What is it? What is the proposal?

Ms. CHAO. The President has said retirees and current retirees are going to have their Social Security payments protected. It is a voluntary——

Ms. TUBBS JONES. What is it you are doing to shore up Social Security, ma'am, as a trustee?

Ms. CHAO. If nothing is done, as I mentioned, going forward, if you take a look at the average 30-year-old today, if nothing is done with a declining population base, that worker is going to have their benefits cut by 27 percent.

Ms. TUBBS JONES. You guarantee that all workers are going to have their benefits cut under whatever proposal you are talking about. Talk to me for a moment: do you agree that private accounts alone are not enough to cure the solvency of Social Security?

Ms. CHAO. I think it is one of the proposals that is being put forward.

Ms. TUBBS JONES. The question is are private accounts alone enough to cure the solvency of Social Security, Secretary Chao?

Ms. CHAO. It is one of the solutions, yes.

Ms. TUBBS JONES. Alone, it cannot cure the solvency.

Ms. CHAO. I do not really see what the point is in——

Ms. TUBBS JONES. I know you do not see the point, because you do not want to answer the question.

Ms. CHAO. No, not at all.

Ms. TUBBS JONES. I am looking for an answer to my question in writing, Mr. Chairman. Thank you for the time.

Chairman THOMAS. The gentleman from Florida wish to inquire?

Mr. FOLEY. Happily. Thank you, Mr. Chairman. It is hard to answer a question on an aspect of saving Social Security if the other side will not even allow the debate to begin. The other side has refused to even talk about a personal account. They have said dramatically that if that conversation remains on the table, then, it is a non-starter. One of the biggest applauses I have heard recently at a townhall meeting, Democrat and Republican debating Social Security was when a college student said up and basically asked the question of our Democratic colleague that participated: what is the Democratic proposal? You do not seem to have one. He acknowledged to his chagrin that they did not. Now, I applaud the Administration for talking about a critically important program. Secretary Chao, I believe you are seated there because you have earned your way as a Cabinet Secretary.

Ms. CHAO. Thank you.

Mr. FOLEY. Not because of being a woman or an Asian but as an American who has excelled in her responsibilities and tasks.

Ms. CHAO. Thank you.

Mr. FOLEY. I also want to suggest and thank you and the Administration for the crackdown on corporate crime. We have seen the result of that yesterday in the significant penalty to a person who abused their trust. I also want to applaud you for taking that same attempt to bring transparency to the finances of union organizations. In Florida, we have seen several union officials go to jail recently as they have been kiting moneys out of the accounts of hard working union members, and they have had their moneys failed to be accounted for, so I applaud you for that. The proposals on Social Security clearly are controversial, but I asked last week the basic question: if I paid \$1 in today, and 30 years from today you told me I can only receive 73 cents back, that is technically a default in American business, is it not?

Ms. CHAO. Yes.

Mr. FOLEY. So, if I cannot pay back my responsibilities, I am de facto not necessarily bankrupt, but I am in a contested state. I am not necessarily solvent. I am illiquid, correct?

Ms. CHAO. Yes.

Mr. FOLEY. The Administration is at least trying to talk to the American public about options. I do not think there is anything that has been dramatically forced by the President onto Congress: private accounts, retirement age, cap, raising the \$90,000, correct? So, it is an open dialog, and I hope we can continue to have a dialog rather than a screaming match. I also wanted to ask you a question relative to the Bureau of Labor Statistics as it conducts its surveys on employment. There is the household survey, the payroll survey, and of course, those numbers tended to be somewhat misleading in 2002 and 2003. Reliable and timely economic data is critically important for us to function as well as the markets. Now that the economy and labor markets have fully rebounded from the recession of 2001, has the Department of Labor undertaken any comprehensive review of the divergence between the household survey and payroll survey?

Ms. CHAO. Last month's numbers were a terrific example of the divergence and the complexity of our workforce. Basically, we had 262,000 new jobs created, but the unemployment went up 5.4 percent, and that is because they are two different surveys. We have about 148 million people in our workforce. Fifty million people leave their jobs every year, and 50 million people find new jobs, so there is great turnover. What we are trying to measure is 0.1 of 1 percent. The good news is both surveys, the household and the payroll survey, are trending upward, and they show that 2.2 to 3 million jobs have been created in the last 18 months.

Mr. FOLEY. Thank you. I yield back.

Chairman THOMAS. I thank the gentleman. Does the gentleman from Massachusetts wish to inquire?

Mr. NEAL. Thank you, Mr. Chairman. Madam Secretary, is it your position that there is a crisis in Social Security?

Ms. CHAO. Well, if nothing is going to be done, there certainly is. I think it is solvent now, but in the future, there is going to be difficulties in meeting the retirement needs of retirees.

Mr. NEAL. Could we not treat that issue as you have described it, though, as it refers to private pension accounts as well, if they do not set aside the proper reserves?

Ms. CHAO. Yes.

Mr. NEAL. Having said that, is it your position—the President, by the way, has stopped using the word crisis as you know. My wild guess is it is because the word does not poll very well any longer. Let me proceed. Is it your position that personal accounts will take care of the solvency issue?

Ms. CHAO. I think if nothing is done, the system will face tough choices. Policy makers will face tough choices in trying to maintain retirement benefits. If it is either a tax increase or a benefit cut, and those are not appetizing choices. So, the discussion has been hopefully to revolve around the need for some measures to preserve our system, and the voluntary retirement accounts are one option that we hope people will consider. They are voluntary.

Mr. NEAL. Is it the position of the Department of Labor that that will take care of the solvency issue?

Ms. CHAO. The Department of Labor is part of this Administration.

Mr. NEAL. I have noticed.

[Laughter.]

Ms. CHAO. As we should be.

Mr. NEAL. Yes.

Ms. CHAO. So, I think that would be the case, yes.

Mr. NEAL. Well, in a sense, I know that you have not had a chance to see this, but the President at his press conference this morning, quoted here by Bloomberg News says, quote, personal accounts do not solve the issue. So, in a sense, he has kind of left people who are out there defending it hanging out there without the necessary words of defense, and he has acknowledged at these rallies that he is holding—I have been holding my own rallies, incidentally, and there is no admission fee. We do not check to see what political party you belong to. We seek no special affiliation. We do not have any litmus test of conservative, liberal, or anything; come on in and have a discussion about Social Security. So, when we do have this issue before us, and the President says the other side will not negotiate, or we want to hear what they have got to say or we want to hear about their proposals, you cannot do it very well if there is this confined atmosphere for people who only agree with the President. That is the reason that he has never really answered this question, I suspect, until today: personal accounts do not solve the issue. Let me take you to the next part of this, if I might: Mr. Foley said that—he talked about the proposals as they relate to Social Security. Would you agree with me there really is not a proposal from the President in front of us? Is that a fair assessment?

Ms. CHAO. Well, the President has put forward some of his ideas.

Mr. NEAL. Concepts.

Ms. CHAO. Yes. That is what he has always done, send principles up in an effort to work with Congress to come up with some solutions.

Mr. NEAL. Fair enough. As a trustee, could you guarantee to the audience today and to those of us who are Members of the Committee that there will be no cuts in survivor benefits or for those of us who receive disability payments?

Ms. CHAO. I do not think—

Mr. NEAL. You do not think you can do that?

Ms. CHAO. I do not think I can do that.

Mr. NEAL. Fair enough, and thank you for your candor on that. Let me, if I can, take you to another track here, because I believe CAFTA is going to be discussed here in the not too distant future. The Administration's proposal in the President's budget cuts \$369 million, according to the Congressional Research Service, for job training funds in the WIA and employment services budget. If we are going to proceed to CAFTA, and let me tell you, if you come from the Northeast, and I know you were well educated in that part of the country—

Ms. CHAO. I hope you do not hold it against me.

Mr. NEAL. No, in fact, I think it is something—I wish all the members of the Administration who went to college in the Northeast might acknowledge that some day.

Chairman THOMAS. The gentleman's time has nearly expired.

[Laughter.]

Mr. NEAL. I have worked hard on the Chairman as well without much success. Would you quickly comment, then, on that notion about \$369 million being cut at the same time you are going to entertain CAFTA? My area is really getting hurt by this now.

Ms. CHAO. We are very concerned about training. Basically, we have \$1.2 billion in float within the system that is not accountable, not accounted for. \$1.5 billion goes to infrastructure, and about \$500 million goes for unaccounted—literally, that is a category. So, of that, we think that \$300 million can be better utilized in direct training.

Mr. NEAL. Okay; would you recommend to the President that this money be restored, though?

Ms. CHAO. We really, as I mentioned, there is \$1.2 billion in excess funds within the system. There should be better utilization.

Mr. NEAL. Thank you, Mr. Chairman.

Chairman THOMAS. I thank the gentleman. The gentleman's time has expired. The gentleman from Texas, Mr. Brady, wish to inquire?

Mr. BRADY. Thank you, Mr. Chairman. I look forward to the debate on Central American trade. As you know, because of preferences, almost all of Central America's goods have access to the U.S. market today, most of it duty-free, tariff-free. This will reopen two-way trade, so that American farmers and American small businesses and American manufacturers can sell them to Central America, which will be a benefit for both regions, since Central America especially has come so far in the past decade in labor rights and rule of law, democracy. They are just, I think, a shining star of what a region makes its decision to move toward our standards have done a beautiful job of it, so I am anxious for that debate. Let us talk a little bit about the economy and job training. Our economy, like the rest of the world's, is changing, and to keep good jobs and to get good jobs, job training done right is just a key

part of that. I know that one of the proposals by the President is to provide more flexibility, so that each region can really train workers to the jobs in that region. Many of our veterans' groups have been following closely the President's proposal to consolidate veterans' job training in employment programs with other workforce programs. The good news, I think, is businesses really want veterans. They have a great work ethic. They have a lot of skills that can move into almost any type of job. Making sure they have the full services of job training, I think, is really key for them, really key for our businesses as well. Can you describe how you see the President's job training reform proposal, how that can affect services to veterans, especially what types of benefits and flexibility will we have for them under the new proposal?

Ms. CHAO. Veterans are sacred beings in our society. They have done so much for us, and we will not let them down. So, within the Department of Labor, we have something called the Veterans Employment Training Service, and on top of that there is an entire workforce development system which gives their needs priority. We have counselors to help disabled veterans; we have counselors to help returning veterans; and again, they get priority on all services.

Mr. BRADY. Yes, and my understanding, and is it true, Madam Secretary, that under the proposal, today we set one standard for getting as many veterans back to work as possible, but within the workforce, general workforce, we actually set a higher standard for more people getting back to work, and under this President's proposal, are we not really setting a higher goal across America to put more veterans back to work than we do today, again, by providing flexibility so that the Houston job market is much different than the California job market, much different than New York, much different than Kansas City, to unlock the boxes of the bureaucracy and actually put veterans' job training ahead of the paperwork that too many of our local organizations have to face; is that sort of how you see that?

Ms. CHAO. Yes, you are right, because let us take another example: the Silicon Valley situation is very different from Kannapolis, North Carolina, where there are textile workers. So, the States should really be given, especially the Governors, much greater flexibility in determining how best to use their multi-siloed funding. There are so many silos now in training. What we are trying to do is break down the silos and consolidate the funds so that there is greater flexibility. For example, right now, a long-term unemployed dislocated worker cannot access dislocated funding, because that is not in the definition. So, we want to, again, allow more funding to be more flexibly used to help workers.

Mr. BRADY. Great; thank you, Madam Secretary. I would just encourage you, let us keep working with our veterans' groups, just so they can be reassured that our whole goal is more flexibility, more services, better jobs.

Ms. CHAO. Absolutely.

Mr. BRADY. So, thank you, Mr. Chairman.

Chairman THOMAS. I thank the gentleman. The Chair indicated at the reconvening from the last recess that the Secretary had until 12:30, and the Chair regrets any Member who was not able to ver-

bally question the Secretary, but certainly, any written question that a Member may have will be responded to by the Secretary, I am quite sure.

Ms. CHAO. Yes.

Chairman THOMAS. With that, the hearing stands adjourned.

[Whereupon, at 12:32 p.m., the hearing adjourned.]

[Questions submitted from Representative Cardin and Representative McDermott to Secretary Chao, and her responses follow:]

#### Question Submitted by Representative Cardin

**Question:** You mentioned several budget proposals to collect and/or reduce UI overpayments. Are you also considering any proposals to correct situations in which unemployed workers are not getting the UI benefits to which they are entitled? For example, a study commissioned by the Department of Labor four years ago suggested that 80,000 workers may be denied unemployment benefits every year because they are misclassified as independent contractors.

You have discussed the Administration's proposal to consolidate a number of job training programs. Can you tell us if that proposal, in addition to the Administration's other budget requests, increases or decreases total funding for job training? I ask because the Congressional Research Service informs us that total job training funds in the Work Force Investment Act and Employment Services would be cut by \$369 million in President Bush's FY 2006 budget.

Defined benefit (DB) plans are vital tools for both employers and employees. These plans offer security to employees because they allocate the risk of investment to the employer, and provide professional investment management for retirement savings. They offer employers stability, a solid return of investment, and a valuable benefit to attract the best employees. I believe that we should work to encourage not only the maintenance of existing DB plans, but also increase policy incentives to create new DB plans.

We can agree that the PBGC (PBGC) is underfunded, and that it is a tragedy for employees when defined benefit plans are transferred to the PBGC because many employees and retirees will lose significant amounts of retirement savings. We can also agree that it is important to ensure that employees and retirees receive accurate and timely information about the state of their pension plans. But my concern is with the long-term implications of some of the proposals you have suggested on the future of the DB system.

The number of defined benefit plans has steadily decreased since 1986. In 1986 there were 172,000 plans, and now there are fewer than 31,000. The economic environment and funding rules have only exacerbated this trend away from DB plans. Yet your proposals "reward" those companies that have chosen to stay in the defined benefit system with substantially higher premiums and substantially greater risks of getting hit by draconian funding rules. You punish companies that are financially strapped by requiring greater payments.

(i) What role did the maintenance of current DB plans play in the formulation of your proposal? Was it a priority? What parts of your proposal are aimed at encouraging companies to stay in the DB business?

(ii) In the formulation of your proposal did you take into account the underlying economic conditions (recession, large and rapid stock market losses) that contributed to the current state of underfunding in both DB plans generally and in the PBGC? How will your plan fare through future economic fluctuations?

(iii) Did you consider, in creating these proposals, the effect on company finances that these changes will have, and the aggregate effect these changes may have on the PBGC (through increases in bankruptcy and plan termination for underfunded plans which will face even larger, faster funding payments than they face today)? How did you seek to mitigate these challenges?

(iv) If companies with well-funded DB plans choose to leave the DB system because of the changes you propose, where will you receive the premium payments to make up the PBGC deficit?



Employers come in and speak to me all the time about how they would like to provide pension plans, but find that the rules make it difficult to plan ahead. As you know, planning ahead is pivotal in any budget process, particularly for companies, who cannot change the rules the way Congress can when it does not reach its own budget goals.

Yet your funding proposals create greater volatility in pension funding through the use of the yield curve, and you base the severity of the funding requirements on credit ratings, which can be difficult to predict.

Under a pure yield curve theory a company could have a different funding liability every day of the year. The same holds true for employees, who could have a vastly different lump sum payment from 1 day to the next.

An SEC report on credit rating agencies (required by Sarbanes Oxley) concluded that: "in the case of Enron, the credit rating agencies displayed a disappointing lack of diligence in their coverage and assessment of that company. In addition, the Staff Report found that, because the credit rating agencies are subject to little formal regulation or oversight, and their liability traditionally has been limited by regulatory exemptions and First amendment protections, there is little to hold them accountable for future poor performance."

Do you think it wise to place so much emphasis on the evaluations of credit rating agencies? How will you evaluate companies that are not publicly held?

Do you have any new details on how your yield curve proposal would work?

Do you think creating greater volatility in pension funding will help maintain pension plans? Will it help to provide greater funding? What about in a high interest rate environment?

[Response not received at the time of printing.]

---

#### Question Submitted by Representative Pomeroy

Question: PBGC's proposals to increase premiums have become part of the President's Budget and the Budget adopted by the House. With an estimated price tag of \$18 billion, it appears that the Administration intends to retire most of \$23 billion deficit in the 5-year budget timeframe. Please explain the rationale in light of the long-term nature of the PBGC liabilities. Could you discuss how the \$17 billion of "probables" would be factored into this premium increase? Is that reasonable?

Your projected fixed per employee rate increase to \$30 per employee would raise about \$2 billion over five years, so the \$16 billion balance would come from the variable rates. Thus, in order to reach the target level suggested by OMB and adopted in the Budget, the variable rate would have to increase to \$136 per \$1,000 of unfunded liability. This represents an increase of over 1400% from the current \$9 per \$1,000. If this calculation is not accurate please provide an explanation of how the rates for underfunded plans will be calculated in order to meet the \$18 billion dollar total amount of PBGC fees anticipated in the FY 2006 budget. Also, since the Administration has generally rejected increasing taxes to help strengthen Social Security, I ask that you explain DOL and PBGC suggesting a dramatic revenue enhancement through increases in PBGC premiums?

The Administration's PBGC proposal requests Congress to transfer its premium setting authority to the PBGC Board of Directors. The Board would then establish the premium rates needed to fund PBGC liabilities. Please describe how and when the Administration consulted with employers, employees, unions and employer organizations in the formulation of its recommendations? Under your proposal, how would the PBGC incorporate public input and comments into the rate setting process and how would you assure employers and employees adequate transparency in the rate setting? Please describe the PBGC Board plans to seek input from Congress as it sets future PBGC premiums and to provide proper accountability to Congress for increases in PBGC premiums.

How many defined benefit plans does the DOL anticipate will terminate over the next five years? How many new defined benefit plans does DOL anticipate being set up in the same period?

The PBGC can finance its deficit in two ways—return on invested assets or higher premiums imposed on plan sponsors. Over the last several years,

the PBGC has unilaterally reduced the equity exposure in its portfolio so that it could minimize fluctuations in its own funded status. In so doing, they have “locked in” the equity losses from the early part of this decade, and concurrently reduced their expected long-term return on invested assets. In taking this action, has the PBGC unilaterally shifted their investment risk onto plan sponsors in the form of permanent, long-term premium increases?

In measuring its liability, the PBGC has historically used an interest rate that is well below market rates. What would the PBGC’s deficit be using the corporate bond interest rate that Congress enacted last year on a temporary basis? What would the PBGC deficit be using the Administration’s own suggested yield curve methodology? Would the PBGC have a surplus if it assumed that its assets earned the same investment rate of return that the Administration projects individuals would earn in private accounts under the President’s Social Security reform model?

Predictability is, of course, vital for business planning. Under the Administration’s proposal how would an employer know at least two or 3 years ahead what its contributions are likely to be? While businesses can purchase contracts to ease some market risks the only choice they have regarding PBGC’s funding rules is to divert cash from operations. Can you respond to employers’ concerns about the volatility of proposed funding requirements?

What modeling have you done on the effect of eliminating smoothing of pension contributions on business planning and the economy? What is the expected impact of your proposals if we return to an environment of higher interest rates? For example, if your rules had been in effect during the early to mid-eighties, what minimum and maximum funding requirements would be required?

The Administration’s proposals would require some employers to make much larger pension contributions starting right away. What modeling has the Administration done to determine how many companies would not be able to meet those sudden increases in cash flow demand? Explain how your modeling anticipates changes to the level of corporate bankruptcies as a direct result of this proposal. Explain actions that you will be taking to make sure that your reform proposals will not force some of the “probables” into “definite problems” for the PBGC.

#### **Response:**

In addition to reforming the funding rules to accurately measure plan liabilities and assets, to ensure adequate funding, and to improve the timeliness and completeness of disclosures to workers and the government, the Administration’s single-employer defined benefit pension reform proposal would ensure the fiscal integrity of the pension insurance system.

The pension insurance system, overseen by the PBGC, is funded through premiums paid by pension plans, not through taxpayer funds. The current premium structure does not reflect the true risk of a plan terminating with insufficient assets to pay benefits and can be manipulated to avoid payment of risk-based premiums. The Administration’s plan will reform the premium structure to reflect more accurately the cost of the program and to shift the emphasis to risk-based premium funding.

The premium structure is composed of two components, a flat-rate premium and a variable-rate premium. The flat rate premium under current law has not been changed since 1991, when the rate of \$19 per participant was established. Our proposal would update this rate to reflect the growth in wages over the past 14 years, setting it at \$30. The flat rate will be indexed to wage growth going forward using the same index used to update the PBGC maximum guaranty limit.

Certain underfunded plans must also pay a variable-rate premium under current law. A plan at the “full-funding limit,” measured on the basis of a plan’s vested current liability, is exempt from paying any variable rate premium even if that plan has significant unfunded vested current liability. Despite record plan underfunding in recent years, less than 20 percent of participants were in plans that paid a variable-rate premium to PBGC last year. Some of the companies that have presented the largest claims against PBGC have avoided paying variable-rate premiums for years prior to termination. Bethlehem Steel was a poor credit risk for many years and its plans were substantially underfunded for many years prior to the plan termination. Bethlehem presented a claim of \$3.7 billion after having paid no variable-rate premium for any year after 1997.

The Administration's proposal would eliminate the full funding limit exception so that all underfunded plans would be required to pay a risk-based premium, based on the plan's unfunded at-risk or ongoing liability. The premium rate per dollar of underfunding will be reviewed and revised periodically by the PBGC Board, which will allow for significant flexibility in balancing the objectives of raising revenue and maintaining reasonable rates.

The budget numbers for the Administration's proposal reflect a risk-based premium rate of \$8—\$9 per \$1,000 of underfunding, not \$136 per \$1,000. This assumes that all underfunding is assessed, that the flat-rate reforms are enacted, and that premium revenues are sufficient to cover expected future claims and to amortize our \$23 billion deficit over 10 years. Of course, plans could always choose to avoid paying the risk-based premiums by reducing their underfunding and lowering the risk they present to the insurance system.

Our latest estimates are that an additional roughly \$14 billion in flat rate and risk-based premiums would be collected under the proposal from 2006–2010, with the objective of restoring the single-employer pension insurance system to fiscal health in 10 years.

